



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके :

Separate paging is given to this Part in order that it may be filed  
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 16th August, 1965:—

BILL NO. 47 OF 1965

*A Bill to provide for the better supervision and more effective administration of Hindu public religious endowments and for matters connected therewith.*

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

5 1. (1) This Act may be called the Hindu Religious Endowments Act, 1965.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

Short title,  
extent and  
commence-  
ment.

(569)

(3) This section shall come into force at once, sections 8 to 13 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and the rest of this Act shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint and 5 different dates may be appointed by the State Government for different provisions thereof.

Defini-  
tions and  
interpre-  
tation.

2. (1) In this Act, unless the context otherwise requires,—

(a) "commencement of this Act", in relation to any provi-  
sion of this Act, means the date of the coming into force of that 10  
provision;

(b) "Commissioner" means the Commissioner of Hindu  
Religious Endowments appointed under sub-section (1) of sec-  
tion 5 and includes a Deputy Commissioner and an Assistant  
Commissioner appointed under sub-section (2) of that section 15  
while exercising the powers and discharging the functions of  
the Commissioner in accordance with the provisions of that sub-  
section;

(c) "Council" means the Central Religious Endowments  
Council constituted under section 8; 20

(d) "manager" in relation to a religious endowment means  
a person who either alone or in association with any other per-  
son administers, manages or otherwise deals with the endow-  
ment;

(e) "math" means a Hindu religious institution with pro- 25  
perties attached thereto and presided over by a person, the suc-  
cession to whose office is regulated by rules of succession laid  
down by the founder or by practices, usages or customs of the  
math relating to such succession and—

(i) whose principal duty is to engage himself in the 30  
teaching and propagation of Hindu religion and philosophy  
and the teachings and philosophy of the denomination, sect  
or *sampradaya* to which the math belongs and in imparting  
religious instruction and training and rendering spiritual  
service to a body of disciples; or

(ii) who exercises or claims to exercise headship over  
a body of disciples, 35

and includes any place or places of religious worship, instruc-  
tion or training which are appurtenant thereto;

(f) "person interested" means,—

5 (i) in the case of a math, the founder of the math or any descendant of such founder or a disciple of the math or a person belonging to the denomination, sect or *sampradaya* to which the math belongs;

10 (ii) in the case of a temple, the founder of the temple or any descendant of such founder or any person who is entitled to attend or is in the habit of attending the performance of worship or service in the temple or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts and offerings thereat;

15 (iii) in the case of a specific endowment, a person who is entitled to attend, or is in the habit of attending, the performance of the specific service or charity for which the specific endowment has been created or who is entitled to partake, or is in the habit of partaking, in the benefit of such service or charity;

and includes the trustee of a math or temple;

20 (g) "prescribed" means prescribed by rules made under this Act;

(h) "priest" includes a shebait by whatever name called (where such shebait performs or conducts any *archana*, *puja* or ritual), an *archaka*, a *pujari* and a *panda*;

25 (i) "public temple" means any place by whatever designation known (whether or not the image of any deity or images of deities is or are installed and consecrated therein), which is used, whether—

(i) by virtue of any dedication to or for the benefit of the Hindu community or any section thereof, or

30 (ii) by virtue of any practice, usage, custom or otherwise,

by the members of the said community or section as a place of public religious worship, prayer or other religious service;

35 *Explanation.*—A temple which is located and maintained in a private dwelling house shall be deemed to be a public temple if—

(a) the members of the Hindu community or any section thereof have, by virtue of any practice, usage, custom

or otherwise, unrestricted access thereto for the purpose of religious worship, prayer or other religious service, and

(b) gifts and offerings are received by the trustees or priests of the temple from such members at the time of or in connection with such worship, prayer or other religious service or on the occasion of any *utsava* or festival or the like;

(j) "religious endowment" or "endowment" means a math or a public temple and all property belonging to or given or endowed for the support of such math or temple, or given or endowed for the performance of any service or charity of a public nature connected therewith and includes the premises thereof but does not include any gifts of property or any offerings made as personal gifts to a trustee, priest, service-holder or other employee of such math or temple;

(k) "specific endowment" means any property or money endowed for the performance of any specific service or charity in a math or temple;

(l) "Tribunal" means the Religious Endowments Tribunal constituted under section 10;

(m) "trustee" means any person whether known as *mathadhipati*, *mohant*, *dharmakarta* or *shebait* or by any other name, in whom either alone or in association with any other person, the administration and management of a religious endowment or specific endowment are vested and includes a manager.

(2) Unless the subject or context otherwise requires, in this Act—

(a) any reference to the word "Hindu" shall be construed as including a reference to the word "Buddhist"; and

(b) any reference to a "religious endowment", "endowment", "math" or "temple" shall be construed as including a reference to a Buddhist religious endowment, endowment, math or temple.

Applica-  
tion of Act  
to Hindu  
public  
religious  
endow-  
ments.

3. This Act applies to all Hindu public religious endowments, that is to say, to all maths and all public temples.

## CHAPTER II

## AUTHORITIES

4. For better supervision and more effective administration of Hindu public religious endowments, there shall be the following authorities charged with such powers and functions as are respectively conferred on them by or under this Act, namely:—

- (a) the Commissioner;
- (b) the Central Religious Endowments Council;
- (c) the Religious Endowments Tribunal;
- 10 (d) such other authority or authorities as the State Government may, by notification in the Official Gazette, appoint to aid and advise the Commissioner in the exercise of his powers and the discharge of his functions.

5. (1) The State Government shall, by notification in the Official Gazette, appoint a person to be the Commissioner of Hindu Religious Endowments for exercising the powers and discharging the functions conferred on him by or under this Act.

(2) The State Government may, by like notification, appoint as many Deputy Commissioners and Assistant Commissioners as it 20 thinks fit, and every such Deputy Commissioner or Assistant Commissioner shall, subject to the general superintendence and control of the Commissioner, exercise such of the powers and discharge such of the functions of the Commissioner and within such local limits as the Commissioner may, by general or special order, 25 specify.

(3) A person shall not be qualified for appointment as Commissioner unless he—

- (a) has for at least ten years held a judicial office in the territory of India; or
- 30 (b) has for at least ten years been an advocate of a High Court or of two or more High Courts in succession.

(4) A person shall not be qualified for appointment as a Deputy Commissioner or an Assistant Commissioner unless he—

- (a) has for at least seven years held a judicial office in the 35 territory of India; or

(b) has for at least seven years been an advocate of a High Court or of two or more High Courts in succession.

Tenure of office and conditions of service of Commissioner, etc., and casual vacancies.

6. (1) The tenure of office of the Commissioner, a Deputy Commissioner and an Assistant Commissioner, their salaries and allowances and other conditions of service shall be such as may be prescribed. 5

(2) Any vacancy in the office of the Commissioner, a Deputy Commissioner or an Assistant Commissioner occurring by reason of death, resignation, removal or otherwise shall be filled in accordance with the rules made under this Act. 10

General powers and functions of Commissioner.

7. (1) Subject to the provisions of this Act, the Commissioner may do all such acts and things as are in his opinion reasonable or necessary to ensure that all Hindu public religious endowments within the local limits of his jurisdiction are properly administered and managed and the income thereof is duly appropriated and applied to the objects for which such endowments were founded or for which they exist, so far as such objects can be ascertained. 15

(2) Without prejudice to the generality of the provisions of subsection (1), the Commissioner shall also exercise all the powers and discharge all the functions specifically conferred on him by or under this Act or by or under any other law for the time being in force. 20

Central Religious Endowments Council.

8. (1) The Central Government shall, by notification in the Official Gazette, constitute for the purposes of this Act a Council to be known as the Central Religious Endowments Council.

(2) The Council shall consist of— 25

(a) such number of members not exceeding fifteen as the Central Government may think fit, to be nominated by that Government from among persons who are in its opinion capable of representing—

(i) the Central Government; 30

(ii) the Union territory administrations;

(iii) the *sadhus* and *sanyasis*;

(iv) the Hindu public religious endowments; and

(v) such other interests which in the opinion of the Central Government ought to be represented on the Council; 35

(b) one representative of each State Government to be nominated by that Government.

(3) The Chairman of the Council shall be appointed by the Central Government from among the members nominated under clause (a) of sub-section (2).

(4) The Chairman and other members of the Council shall receive such remuneration, if any, and shall be governed by such conditions of service, as the Central Government may determine.

(5) All expenses incurred in connection with the Council shall be defrayed out of the contributions referred to in section 58 in accordance with such directions as may be issued by the Central Government in this behalf.

(6) Any vacancy occurring in the Council shall be filled as soon as may be by nomination as provided in sub-section (2).

(7) The Council shall have power—

(a) to regulate its procedure and conduct of business; and

(b) to constitute committees and sub-committees, if any, of its members and to delegate to each of them such of its functions as it thinks fit.

(8) The Council shall have power to act notwithstanding any vacancy therein.

9. The Council shall discharge such functions as may be conferred on it by or under this Act.

Functions  
of the  
Council.

10. (1) The Central Government shall, by notification in the Official Gazette, constitute a Tribunal to be known as the Religious Endowments Tribunal.

Religious  
Endow-  
ments  
Tribunal.

(2) The Tribunal shall consist of such number of members as the Central Government may think fit, to be appointed by that Government after consultation with the Council.

(3) A person shall not be qualified for appointment as a member of the Tribunal unless he is a Hindu and—

(a) has been, or is, or is qualified to be, a judge of a High Court; or

(b) having held office for at least ten years under the Government, has, in the opinion of the Central Government, adequate knowledge of, and experience in, matters of administration and finance; or

(c) has, in the opinion of the Central Government, special knowledge of Hindu scriptures, philosophy, religion and reli-

gious practices and experience of the working and administration of Hindu public religious endowments.

(4) The Central Government shall appoint a member of the Tribunal having the qualification specified in clause (a) of sub-section (3) to be the Chairman of the Tribunal. 5

(5) The Chairman and other members of the Tribunal shall receive such remuneration and shall be governed by such conditions of service as the Central Government may determine:

Provided that the remuneration of the Chairman or any other member shall not be varied to his disadvantage after his appointment. 10

(6) The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.

(7) All expenses incurred in connection with the Tribunal shall be defrayed out of the contributions referred to in section 58 in accordance with such directions as may be issued by the Central Government in this behalf. 15

Functions of the Tribunal. 11. The Tribunal shall discharge such adjudicating and other functions as may be conferred on it by or under this Act. 20

Appointment of assessors. 12. (1) The Tribunal may in its discretion discharge any of its functions under this Act with the aid of such number of assessors as it may think fit and for this purpose shall, after consultation with the Council, prepare and maintain a list of assessors.

(2) Every assessor shall be a person fit and suitable to give advice to the Tribunal on matters which come up before the Tribunal for consideration. 25

Procedure of Tribunal. 13. (1) The functions of the Tribunal may be discharged by Benches constituted by the Chairman of the Tribunal from among the members thereof. 30

(2) Every such Bench shall consist of three members possessing respectively the qualifications specified in clause (a), clause (b), and clause (c) of sub-section (3) of section 10.

(3) If during the course of any proceedings any member of the Tribunal is for any reason unable to discharge his functions or relinquishes his membership of the Tribunal, the Central Government may appoint another member in his place in accordance with the provisions of this Act and upon his joining the Tribunal the 35



proceedings shall be continued as if he had been on the Tribunal from the commencement of the proceedings.

(4) In the case of difference of opinion among the members of a Bench, the opinion of the majority shall prevail and orders of the Bench shall be expressed in terms of the views of the majority.

(5) Decisions and orders of a Bench of the Tribunal shall be deemed to be the decisions and orders of the Tribunal itself.

(6) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the discharge of its functions, including the places at which the Benches shall hold their sittings and while discharging any adjudicating functions, shall follow the principles of natural justice.

(7) The Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Commissioner by sub-section (2) of section 63; and any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and for the purpose of section 196 of that Code and the Tribunal shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898.

45 of 1880.

5 of 1898

### CHAPTER III

#### REGISTRATION OF HINDU PUBLIC RELIGIOUS ENDOWMENTS

14. The Commissioner shall maintain a register of all Hindu public religious endowments in the State in such form and containing such particulars as may be prescribed.

Register of Hindu public religious endowments.

15. (1) The trustee of every Hindu public religious endowment shall make an application to the Commissioner for the registration of the endowment.

Application for registration of religious endowments.

(2) Such application shall be made in such form and manner and accompanied by such fee, not exceeding fifty rupees, as may be prescribed and shall, as far as may be, contain the following particulars, namely:—

(a) the name or designation by which the religious endowment is or shall be known;

(b) the name and address of the trustee and the manager;

(c) the mode of succession to the office of trustee;

(d) the movable and immovable properties pertaining to the endowment and a description thereof sufficient for their identification;

(e) the approximate value of the movable and the immovable properties of the endowment; 5

(f) in the case of a religious endowment existing at the commencement of this Act, a statement of the gross income annually received and of the expenses annually incurred in connection with the religious endowment, during the period of three years immediately preceding such commencement; 10

(g) in the case of a religious endowment created after such commencement, an estimate of the gross income which is likely to be received, and of the expenses which are likely to be incurred, annually, in connection with the religious endowment, during the period of three years immediately following the date 15 of the creation of the endowment;

(h) such other particulars as may be prescribed.

(3) Every application shall be accompanied by a copy of the endowment deed or if no such deed has been executed or a copy thereof cannot be obtained, the application shall contain full particulars as far as they are known to the applicant, of the origin, nature and object of the endowment. 20 5 of 1908

(4) Every application shall be signed and verified by the applicant in the manner provided in the Code of Civil Procedure, 1908, for the signing and verification of pleadings. 25

(5) The Commissioner may require the applicant to supply such further particulars or such information relating to the endowment as the Commissioner may deem necessary.

(6) Every application for registration shall be made—

(a) in the case of a religious endowment existing at the commencement of this Act, within six months next following such commencement, and 30

(b) in the case of a religious endowment created after such commencement, within six months next following the date of the creation of the endowment. 35

Inquiries  
for regis-  
tration.

16. (1) On the receipt of an application under section 15, the Commissioner shall in the prescribed manner make such inquiries as he thinks fit in respect of the application and the correctness of

the particulars therein mentioned and may, in addition, make an inquiry in respect of all or any of the following matters, namely:—

- (a) whether there is an endowment and whether such endowment is a Hindu public religious endowment;
- 5 (b) whether any property is the property of such religious endowment;
- (c) whether the whole or any substantial portion of the endowed property is situated within the local limits of his jurisdiction;
- 10 (d) the origin, nature and object of such endowment;
- (e) the gross average annual income and expenditure of such endowment;
- (f) any other matter which may be prescribed.

(2) If on an application made to him by a person interested in a  
15 religious endowment or otherwise, the Commissioner has reason to believe that there is a religious endowment which should be registered under this Act, he may make such inquiries as he thinks fit in respect of the matters specified in sub-section (2) of section 15 and sub-section (1) of this section; but no inquiry shall be made  
20 without giving the trustee a reasonable opportunity of being heard.

(3) On the completion of an inquiry under this section, the Commissioner shall record his findings with the reasons therefor in respect of the matters inquired into and make an order in relation to the religious endowment.

25 17. Where an order for registration of a religious endowment is made under section 16, the Commissioner shall cause the entries in respect thereof to be made in the register (maintained by him under section 14) in accordance with the findings recorded under sub-section (3) of section 16. Entry in register.

30 18. (1) Where any change occurs in any of the entries made in the register maintained under section 14, the trustee shall, within ninety days from the date of such change, send by post a report to the Commissioner in the prescribed form giving notice of the change. Amend-ment of register.

35 (2) On the receipt of a report under sub-section (1) or otherwise, the Commissioner may hold an inquiry for ascertaining whether any change has occurred in any of the entries recorded in the register in relation to the religious endowment.

(3) If the Commissioner, after holding such inquiry, is satisfied that a change has occurred in any of the entries made in the register, he may make an order to that effect and shall cause the relevant entry in the register to be amended accordingly

Special provisions with respect to religious endowments registered under any other law

19. (1) Where any Hindu public religious endowment has been registered in a State before the commencement of this Act under any other law with respect to religious endowments in force in that State, the religious endowment shall, as from such commencement, be deemed to have been registered under this Act.

(2) The Commissioner shall issue a notice by post to the trustee of such endowment for the purpose of making the entries relating thereto in the register maintained under section 14

(3) The trustee of such religious endowment shall, as far as may be, supply to the Commissioner the particulars referred to in section 15 within three months from the date of the receipt of the notice referred to in sub-section (2).

(4) The Commissioner may, after such inquiries as he thinks fit, record his findings with reasons therefor in respect of the matters specified in sub-section (2) of section 15 and sub-section (1) of section 16 and make an order in relation to the endowment and the provisions of sections 16 and 17 shall, as far as may be, apply to such order

Furnishing copies of extracts from register

20. (1) The Commissioner may, on application made to him in this behalf, furnish to the applicant copies of any extracts from the register maintained under section 14 on payment of such fee not exceeding one rupee for every one hundred words or fractional part thereof required to be copied, as may be prescribed and subject to such conditions, if any, as may be determined by the Commissioner.

(2) Such copies may be certified in the manner provided in section 76 of the Indian Evidence Act, 1872.

1 of 1872

Civil courts not to entertain suit on behalf of an unregistered religious endowment.

21. (1) No civil court shall entertain a suit for the enforcement of a right on behalf of a Hindu public religious endowment unless such endowment has been, or is deemed to be, registered under this Act.

(2) The provisions of sub-section (1) shall also apply to a claim of set-off or other proceeding to enforce a right on behalf of a Hindu public religious endowment which has not been, or is not deemed to be, registered under this Act.

## CHAPTER IV

ADMINISTRATION AND MANAGEMENT OF HINDU PUBLIC  
RELIGIOUS ENDOWMENTS

22. (1) The appointment and succession to the office of a trustee of a Hindu public religious endowment shall be regulated by the rules, practices, usages or customs of the religious endowment with respect to such appointment or succession.

Appointment and succession to office of trustee.

(2) Neither the head of a Hindu public religious endowment nor any other trustee thereof shall have the power to alter, amend, modify or rescind any such rules, practices, usages or customs except with the permission in writing of the Tribunal.

23. For the removal of doubts, it is hereby declared that the provisions of the Hindu Succession Act, 1956, shall not apply to and in relation to the succession to the office of a trustee of a Hindu public religious endowment.

Hindu Succession Act, 1956, not to apply to succession to office of trustee.

24. A person shall be disqualified for being appointed, or succeeding, to the office of a trustee of a Hindu public religious endowment—

Disqualifications for trusteeship.

(a) if he is of unsound mind and stands so declared by a competent court;

(b) if he suffers from any such physical disease or defect as renders him unfit or incapable to perform the duties of his office;

(c) where a trustee is, by rules, practices, usages or customs of the endowment, prohibited from marrying, if he has married;

(d) if he lives an immoral, vicious or scandalous life;

(e) if he has been convicted of any offence involving moral turpitude;

(f) notwithstanding anything contained in the Caste Disabilities Removal Act, 1850, if he does not belong to the denomination, sect or *sampradaya* to which the religious endowment belongs.

25. A trustee may be removed from his office on the ground that he is, or has become, subject to any of the disqualifications mentioned in section 24 or on the ground—

Removal of trustees.

(a) that he has neglected or failed to discharge the functions of his office; or

(b) that the affairs of the religious endowment have not been properly managed or have been mismanaged; or

(c) that he is guilty of misappropriation of any endowment property.

Disputes  
relating to  
office of  
trustee  
to be  
decided by  
Tribunal

26. (1) In any of the following cases, that is to say,—

5

(a) when there is any dispute as to the disqualification of a person for being appointed or succeeding to the office of a trustee on any of the grounds specified in section 24 or as to the removal of a trustee under section 25; or

(b) when the person entitled to succeed to the office of trustee is a minor and has no guardian fit and willing to act as such or when there is a dispute as to the person who is entitled to act as guardian; or

(c) when the trustee entitled to nominate his successor in office is unable or unfit to do so by reason of his removal from office or otherwise; or

(d) when there is no person eligible to become a trustee; or

(e) when there is a dispute as to the right of any person to act as, or to succeed to the office of, a trustee,

20

the case shall be referred to the Tribunal for decision.

(2) Every case under sub-section (1) shall be stated in the form of an application which shall be presented to the Tribunal or such officer thereof as it may appoint in this behalf.

(3) Every such application—

25

(a) shall contain a concise statement of the circumstances and materials upon which the person making the application relies in support of his allegation,

(b) shall be signed and verified in the manner laid down in the Code of Civil Procedure, 1908, for the signature and verification of a plaintiff in a suit.

30 5 of 1908

(4) The Tribunal may, after issuing notice in the prescribed manner to every person who appears to it to be interested in the endowment and holding such inquiry as it thinks fit, make such order in the case (including an order appointing a fit person to be the trustee of the endowment or to discharge the functions of a trustee or to be the guardian of a minor trustee) as it deems fit.

35

Provided that in appointing a person to the office of a trustee or to discharge the functions of a trustee or to be the guardian of a minor trustee, the Tribunal shall select a person of the denomination, sect or *sampradaya* to which the endowment belongs.

5 27. (1) Pending the order of the Tribunal under sub-section (4) of section 26, the Commissioner may—

Power of Commissioner to suspend trustee pending order of Tribunal.

10 (a) suspend from office on any of the grounds specified in section 24 or section 25, the trustee of a religious endowment if in the opinion of the Commissioner such suspension is immediately necessary in the interests of the endowment; and

(b) appoint a fit person to discharge the functions of the trustee during the period of such suspension.

(2) The Commissioner shall, as soon as possible, report to the Tribunal any action taken by him under sub-section (1).

15 28. Where a trustee has been removed from his office by an order of the Tribunal under section 26 or suspended from his office by an order of the Commissioner under section 27, the Tribunal or, as the case may be, the Commissioner shall direct the trustee so removed or suspended to deliver possession of the endowment property to the person who has succeeded to the office of the trustee by virtue of the order of the Tribunal or who has been appointed by the Tribunal or the Commissioner to discharge the functions of the trustee.

Trustee to deliver possession of property.

25 29. Subject to the provisions of this Act, the administration and management of every Hindu public religious endowment shall be vested in the trustee thereof and the trustee shall be responsible for the proper and efficient discharge of his functions in relation to the affairs, religious and secular, of the religious endowment.

Administration and management of Hindu public religious endowment to vest in trustee.

30 30. (1) The trustee of every Hindu public religious endowment shall prepare and maintain a register in such form as the Commissioner may direct, showing—

Preparation and maintenance of register of Hindu public religious endowments.

35 (a) the origin and history of the Hindu public religious endowment and the names of past and present trustees and particulars as to the rules, practices, usages or customs regarding the succession to the office of trustee;

(b) the particulars relating to the administration and management of the endowment and the scale of expenditure incurred in connection therewith;



(c) the names of all offices to which any salary, emolument or perquisite is attached and the nature, time and conditions of service in each case;

(d) the jewels, gold, silver, precious stones, vessels and utensils and other movables belonging to the endowment with their weights and estimated values; 5

(e) the particulars of all immovable properties belonging to the endowment and of all title deeds and other documents relating thereto;

(f) the particulars of the idols and other images of the endowment, whether intended for worship or for being carried in processions or for any other purpose; 10

(g) the particulars of ancient or historical records relating to the endowment with their contents in brief; and

(h) such other particulars as may be required by the Commissioner. 15

(2) The register shall be verified and signed by the trustee of the religious endowment concerned or by his authorised agent and submitted by him to the Commissioner within three months from the commencement of this Act or, as the case may be, from the date of the creation of the religious endowment or within such further period as may be allowed by the Commissioner. 20

(3) The Commissioner may, after receiving the register, direct the trustee to make such additions, alterations or omissions in the register as the Commissioner may deem fit. 25

(4) The trustee shall carry out the orders of the Commissioner and then submit three copies of the register as corrected to the Commissioner for approval.

(5) One copy of the register as approved by the Commissioner shall be furnished to the trustee. 30

(6) The trustee or his authorised agent shall scrutinise the entries in the register every year and submit to the Commissioner for his approval a signed and verified statement showing the additions, alterations or omissions required in the register and the provisions of sub-section (3), sub-section (4) and sub-section (5) shall apply in relation to such statement as they apply in relation to the register. 35



31. (1) Where, on receipt of any report of the auditor in respect of any Hindu public religious endowment or on an application made in this behalf by two or more persons interested in the endowment or otherwise, the Commissioner has reason to believe that the affairs of the endowment are being mismanaged or that the trustee is neglecting or failing to discharge his functions in relation to the endowment in a proper and efficient manner, the Commissioner may, after issuing notice in the prescribed manner to the trustee and to such other persons as may appear to the Commissioner to be interested in the endowment, hold an inquiry into the matter in such manner as may be prescribed.

Power of Commissioner in cases of mismanagement.

(2) If, after holding an inquiry under sub-section (1), the Commissioner is satisfied—

(a) that the affairs of the religious endowment are being mismanaged or that the trustee is neglecting or failing to discharge the functions of his office, or

(b) that the trustee is guilty of misappropriation of any endowment property,

the Commissioner may, without prejudice to any other action that may be taken against the trustee under any of the foregoing provisions of this Act, make an order giving directions to the trustee for the proper and efficient administration and management of the endowment or for the discharge of the functions of his office, or directing the trustee to pay to the endowment such amount not exceeding the amount of loss caused to the endowment as the Commissioner thinks fit.

32. The trustee of every Hindu public religious endowment shall prepare before the close of every financial year in such form and within such time as may be prescribed, a budget of the estimated income and expenditure of such endowment for the next financial year and shall forthwith send a copy thereof to the Commissioner:

Budget of religious endowments.

Provided that nothing in this section shall apply to a religious endowment having an annual income of less than one thousand rupees.

33. The trustee of a Hindu public religious endowment shall, while preparing the budget in accordance with section 32, make provision for the following objects, namely:—

Obligatory expenditure of Hindu public religious endowments.

(a) the due maintenance of the objects of the institution and the proper performance of the services therein in conformity with the rules, practices, usages or customs of the endowment;

(b) the payment of the salaries and allowances due to the trustee, priests and other servants of the endowment;

(c) the adequate training of priests, *sadhus*, *sanyasis*, *adhyapakas*, *Vedaparayanikas* and reciters of holy texts;

(d) the repayment of loans binding on the endowment, the repair, renovation or extension of the buildings of the endowment, and the contributions required to be made in pursuance of the provisions of section 44 and section 58;

(e) the maintenance of a working balance.

Discretionary expenditure of Hindu public religious endowments.

34. The trustee of a Hindu public religious endowment may, after making adequate provision for the objects specified in section 33, make provision in the budget of the endowment for all or any of the following objects, namely:—

(a) the arrangements for providing amenities to *sadhus*, *sanyasis*, disciples, worshippers, devotees, pilgrims and other visitors, that is to say, clean accommodation, good water supply, lighting, sanitation and supply of wholesome food where the custom of *Naivedyam* or *Bhog* obtains;

(b) the grant of aid to any other religious endowment in needy circumstances, of the same denomination, sect or *sampradaya*;

(c) the provision and maintenance of flower gardens and *goshalas*;

(d) the propagation of the tenets of the religious endowment and the fundamentals of Hindu *dharma* common to all denominations, sects or *sampradayas*;

(e) the publication of *agamas* and the history of every endowment;

(f) the provision of libraries with religious and philosophical works and publication of religious literature and making the same available to the members of the public either free of cost or at a cheap price;

(g) the provision for religious discourses;

(h) the grant of scholarships and stipends to Hindu students studying in educational institutions where such students undertake, in addition to their normal studies, the study of Hindu religion and philosophy and offer themselves to be examined as regards their progress in such studies;

(i) the promotion of temple architecture, sculpture and fine arts;

(j) the establishment and maintenance of institutions where secular as well as religious education is imparted;

5 (k) the establishment and maintenance of colleges or institutions for the study of Hindu religion, philosophy, *Vedas* or the *Shastras* or contributions thereto;

(l) the establishment and maintenance of orphanages for Hindu children;

10 (m) the establishment and maintenance of asylums for persons suffering from leprosy or any other serious disease;

(n) the establishment and maintenance of poor homes for destitute, helpless and physically disabled persons; and

15 (o) the establishment and maintenance of hospitals and dispensaries for the benefit of *sadhus*, *sanyasis*, disciples, worshippers, devotees, pilgrims and other visitors.

35. (1) The Commissioner may, after giving notice to the trustee in the prescribed manner and after considering his representation, if any, make such alterations or modifications in the budget as the Commissioner thinks fit.

Power of Commissioner to make alterations or modifications in budget.

(2) Nothing contained in sub-section (1) shall be deemed to authorise the Commissioner to restrict or prohibit the observance of any religious practice or the performance of any act in pursuance of any religious belief or to alter or modify any budget in a manner or to an extent inconsistent with the provisions of this Act or with the wishes of the founder of the endowment so far as such wishes can be ascertained.

36. (1) With the previous sanction of the Commissioner and subject to such conditions and restrictions as may be prescribed, the trustee of a Hindu public religious endowment may appropriate any portion of the accumulated surplus of such endowment for any of the purposes specified in section 34.

Utilization of accumulated surplus funds of Hindu public religious endowments for the discretionary purposes.

(2) Before giving sanction under sub-section (1), the Commissioner shall publish the particulars relating to the proposal of the trustee in such manner as may be prescribed, invite objections and suggestions with respect thereto and consider all the objections and suggestions received.

(3) The sanction aforesaid shall be published in such manner as may be prescribed.

Power of  
Commissioner to  
settle  
schemes  
for proper  
adminis-  
tration  
of Hindu  
public  
religious  
endow-  
ments

37. (1) Where on an application made in this behalf by two or more persons interested in a Hindu public religious endowment or otherwise, the Commissioner is of the opinion that in the interest of the proper administration and management of the endowment, a scheme should be settled for it, the Commissioner may, after issuing ' 5 notice in the prescribed manner to the trustee of the endowment and to such other persons as may appear to the Commissioner to be interested therein, hold an inquiry into the matter in the prescribed manner and if, after such inquiry, the Commissioner is satisfied that it is necessary or desirable so to do, he may, by order, settle a scheme 10 for the proper administration of the religious endowment.

(2) The Commissioner may also, in like manner and subject to like conditions, modify any scheme settled under this section or under any other law or substitute another scheme in its stead.

(3) No scheme settled, modified or substituted under this section 15 shall be contrary to the wishes of the founder of the religious endowment so far as such wishes can be ascertained or to the religion to which such endowment belongs

Applica-  
tion of  
property  
cy pres.

38. (1) Where from any application made to him by two or more persons interested in a Hindu public religious endowment or a speci- 20 fic endowment or otherwise, it appears to the Commissioner that,—

(a) the original objects, in whole or in part, of the endowment or specific endowment—

(i) have been fulfilled as far as may be; or

(ii) either cannot be carried out at all or cannot be 25 carried out according to the directions and wishes of the founder or according to the spirit of the endowment or specific endowment; or

(b) the original objects provide a use for part only of the property or income of the endowment or specific endowment; or 30

(c) the property and income of the endowment or specific endowment and any other property applicable to objects similar to the original objects of the endowment or the specific endowment can be more effectively used in conjunction and to that end can suitably be made applicable to common objects regard being 35 had to the directions and wishes of the founder or the spirit of the endowment or the specific endowment; or

(d) the original objects were laid down by reference to an area, or a class of persons, which has for any reason ceased to be suitable, regard being had to the directions and wishes of the 40 founder or the spirit of the endowment or the specific endowment,

or to be practical in administering the endowment of the specific endowment; or

(e) the original objects, in whole or in part, have, since they were laid down,—

- 5 (i) been adequately provided for by other means; or
- (ii) ceased as being useless or harmful to public order, morality or health, to be in law religious or charitable objects; or
- 10 (iii) ceased in any other way to provide a suitable and effective method of using the property and income of the endowment or specific endowment, regard being had to the directions and wishes of the founder and the spirit of the endowment or the specific endowment,

the Commissioner may, after issuing notice in the prescribed manner

15 to the trustees of the endowment and to such other persons as may appear to him to be interested therein, hold an inquiry into the matter and if after such inquiry the Commissioner is satisfied that it is necessary so to do, he may, by order, direct that the property and income of the endowment or the specific endowment or so much

20 thereof as he deems fit shall be applied, subject to such conditions, if any, as may be specified in the order, to any other objects which shall be similar, or as nearly as practicable, similar to the original objects or if in the opinion of the Commissioner it is not possible to determine which other objects are similar or as nearly as practicable, similar,

25 lar, to the original objects, to any one or more of the objects specified in section 34.

(2) In making an order under this section in relation to an endowment or specific endowment, the Commissioner shall have, as far as may be, due regard to the directions and wishes of the founder or

30 the spirit of the endowment or specific endowment and also to the wishes of the trustees and persons interested in the endowment or specific endowment and no order shall be made directing the application of the property or income of the endowment or specific endowment to any purpose other than a purpose which is recognised by

35 Hindu religion or by the denomination, sect or *sampradaya* thereof to which the endowment or specific endowment belongs, as a religious, pious or charitable purpose.

39. (1) Where the whole or any portion of the property of a Hindu public religious endowment or of a specific endowment consists of money which cannot be applied immediately or at an early date to the objects to which such money can be applied under this Act or where there is a surplus in the funds of a Hindu public religious endowment or of a specific endowment after meeting all lawful expenditure in connection therewith, the trustee shall, except

40 investment of endowment money.

as otherwise provided in this Act, invest, subject to the directions, if any, contained in the deed of endowment, such money or surplus in the following securities and no others, namely:—

(a) securities of the Central Government or a State Government;

5

(b) stocks, shares or debentures of companies, the interest or dividend on which has been guaranteed by the Central Government or any State Government;

(c) debentures or other securities for money issued by or on behalf of any local authority or corporation in exercise of the powers conferred by any Central Act or any Provincial or State Act;

Provided that the Commissioner may, by general or special order, permit the trustee to invest the money or the surplus in any other manner consistent with the endowment deed and the objects to which such money or surplus may be applied under this Act.

(2) Nothing in sub-section (1) shall affect any investment made before the commencement of this Act.

Alienation  
of immov-  
able  
property.

40. (1) No transfer by a trustee of any property belonging to a Hindu public religious endowment by way of sale, mortgage, exchange or gift or by way of lease, the term or in the case of a renewable lease, the aggregate term of which exceeds three years, shall be valid unless it is made with the previous sanction of the Commissioner:

Provided that no such sanction shall be given unless the Commissioner is of the opinion that the transfer is necessary in the interests of the endowment.

(2) Where any transfer of property is made in contravention of sub-section (1), the provisions of section 10 of the Limitation Act, 1963, shall apply notwithstanding that such transfer is a transfer for valuable consideration.

36 of 1963.

Archana  
or puja by  
unquali-  
fied priests  
not to be  
allowed  
in Hindu  
public  
religious  
endow-  
ment.

41. (1) No trustee of a Hindu public religious endowment shall, after the expiry of two years from the commencement of this Act, allow any person to officiate as a priest unless such person possesses, subject to such suitable modifications in view of local conditions as may be authorised by the Commissioner, the following qualifications, namely:—

35

(a) a working knowledge of Sanskrit;

(b) a good knowledge of the *mantras*, *agamas* and other relevant *Shastras*, rituals and mode of worship as required by the tenets of denomination, sect or *sampradaya* concerned thereof;

5 (c) a knowledge of the *Sthalapurana* and traditions of the endowment to which he is, or may be, attached;

(d) proficiency in the regional language or languages so as to enable him to explain with facility the meaning and significance of the *mantras*, *archanas* and *pujas* to worshippers, devotees, pilgrims or other visitors; and

10 (e) a good moral character and basic learning so as to inspire reverence in the worshippers, devotees, pilgrims and other visitors.

(2) A trustee who contravenes the provisions of this section shall be punishable with fine which may extend to five hundred rupees.

42. (1) If any hereditary priest does not possess the qualifications specified in section 41, he shall appoint a deputy who possesses those qualifications for performing *archana* and *puja* and such deputy shall perform *archana* and *puja* until the hereditary priest or his descendant acquires the qualifications so specified.

Unqualified hereditary priests to be required to appoint qualified deputies to perform *archana* and *puja*.

(2) In the matter of appointment of a deputy under this section preference should be given to a qualified person who has a hereditary right to perform *archana* or *puja*.

25 43. (1) In order to provide facilities to priests to acquire the qualifications specified in section 41, the State Government shall set up in one or more important Hindu religious centres within the State, schools or institutions for giving training to priests in the *Shastras* and *agamas*, *archana* and *pujapaddhati* and other rituals in accordance with the prescribed syllabus.

State Governments to set up schools for training of priests.

30 (2) The syllabus referred to in sub-section (1) shall make provision for both elementary and advanced training.

(3) The syllabus for elementary training may provide for—

(a) a working knowledge of Sanskrit;

35 (b) a knowledge of the *Shastras* and *agamas*, *mantras*, rituals and mode of worship of the respective denominations, sects or *sampradayas* to which the priests belong;



(c) a knowledge of the *Sthalapurana* and the traditions of the institution to which they are or may be attached;

(d) a good working knowledge of the regional language or languages so as to enable them to explain with facility the meaning and significance of the *mantras*, *archanas* and *pujas* 5 to worshippers, devotees, pilgrims and other visitors.

(4) The syllabus for advanced training shall, in addition to the matters specified in sub-section (3), provide for the study of select-  
ed *Shastras* and the *Darshanas* or Philosophies of Hinduism in  
general with particular emphasis on the tenets of the denominations, 10  
sects or *sampradayas* to which the priests belong.

(5) The school or institution shall, after the completion of the training, elementary and advanced, hold examinations and grant certificates to the successful candidates both in respect of elemen- 15  
tary training and advanced training.

(6) The school or institution shall also provide for courses of training for the priests who are already serving in Hindu public religious endowments and the provisions of sub-sections (2) to (5) shall apply to the priests who join such courses of training.

(7) The school or institution may also provide for refresher 20  
courses for the priests holding certificates granted by it.

(8) The school or institution may also make provision for part-time training for such Hindu students studying in secular schools or institutions as may volunteer for such training during their spare time. 25

(9) The school or institution may initiate and maintain a system of award of stipends to students who are undergoing training therein, preference being given as far as possible to the students from the families of hereditary priests.

Contribu- 44. Every Hindu public religious endowment shall contribute 30  
tions by such percentage of its surplus funds not exceeding five per cent.  
Hindu thereof as may be specified in each case or class of cases by the Com-  
public missioner with the approval of the State Government for the pur-  
religious pose of meeting the expenses of the school or institution referred  
endow- to in section 43 and the expenses, if any, incurred in connection 35  
ments towards the payment of salaries and allowances to the priests and such  
expenses expenses shall be met from the contributions so received:  
of schools  
or institu-  
tions.



Provided that no contributions made by any Hindu public religious endowment belonging to any denomination, sect or *sampradaya*, shall be utilized for meeting the expenses of any school or institution of, or the expenses incurred in connection with the payment of salaries and allowances to priests attached to and serving in, Hindu public religious endowments belonging to a different denomination, sect or *sampradaya*.

45. Notwithstanding anything in any rules, practices, usages or customs of a Hindu public religious endowment, no priest attached to or serving in such endowment shall, on and after the commencement of this Act, have any proprietary right to any part of the offerings made before the deity installed therein, nor shall he enjoy any right of custody of the jewels and other valuable articles belonging to the endowment:

Priests not to have any proprietary right to any offerings and jewels, etc.

15 Provided that a priest shall have a proprietary right to any gift which is specifically made to him and not for the benefit of the endowment, by any worshipper, devotee, pilgrim or other visitor.

46. The Commissioner shall, after consultation with the Council, prepare a code of conduct for the priests and different codes may be prepared in relation to different classes or categories of priests.

Code of conduct for priests.

47. (1) The State Government, after consultation with the Council, shall, by rules made in this behalf, specify a regulated scale of fees which may be paid to a priest by worshippers, devotees, pilgrims or other visitors at a temple for services connected with *abhishek*, *archana*, *puja*, *utsava* and the like.

Scale of fees to be paid by worshippers and other visitors.

(2) The trustee of every Hindu public religious endowment shall publish the scale of fees so specified, in such manner as may be prescribed and also exhibit such scale of fees in one or more conspicuous parts of the endowment.

30 (3) The trustee shall supply to every priest, printed receipt books (duly certified by the trustee) in such form as may be prescribed and the priest shall grant receipts from such receipt books to the worshippers, devotees, pilgrims or other visitors for the amounts paid by them.

35 (4) The Commissioner may, after giving reasonable opportunity of being heard to a priest who obtains payment of fees at a rate higher than the specified rates or who omits to grant receipts for the amounts paid to him, prohibit him either absolutely or for a limited period from officiating as a priest in any Hindu public religious endowment in the State.

Salaries  
and other  
conditions  
of service  
of  
*archakas*  
and  
*pujaris*.

48. (1) Every *archaka* or *pujari* attached to or serving in a Hindu public religious endowment shall receive such salary and dearness and other allowances as may be prescribed so, however, that the salary paid to an *archaka* or *pujari* shall in no case be less than rupees sixty per month and the dearness and other allowances paid to an *archaka* or a *pujari* shall not be less than those admissible to persons serving in connection with the affairs of the State in the corresponding grades. 5

(2) Where the income of a Hindu public religious endowment is not sufficient to meet the expenditure to be incurred on account of the salaries and allowances referred to in sub-section (1), such salaries and allowances or any portion thereof may be paid out of the contributions referred to in section 44. 10

(3) Other conditions of service of *archakas* and *pujaris* attached to and serving in a Hindu public religious endowment shall be specified by rules made by the State Government in this behalf and such rules may provide for the following among other matters, namely:— 15

(a) the pension and provident funds for *archakas* and *pujaris*; 20

(b) the punishment by way of fine, suspension or removal from office for misconduct or negligence of duty, disobedience to the directions of the trustee or other authorities concerned with the administration and management of the endowment;

(c) the appeal against any such punishment and the authority to whom such appeal shall be preferred; 25

(d) any other matter which is by the State Government considered necessary for regulating the conditions of service of *archakas* and *pujaris*.

(4) The trustee of every Hindu public religious endowment shall make endeavour to provide free residence to every *archaka* or *pujari* attached to and serving in the endowment. 30

Licensing  
of *pandas*.

49. (1) After the expiry of two years from the commencement of this Act, no trustee of a Hindu public religious endowment shall allow any person to act, and no person shall act, as a *panda* unless such person— 35

(a) possesses the qualifications specified under section 41 to perform any religious or other services for worshippers, devotees, pilgrims or other visitors; and

(b) has obtained from the Commissioner a licence granted in accordance with the provisions of this section and the rules made under this Act.

5 (2) Every person desiring to obtain a licence referred to in sub-section (1) shall make an application in writing to the Commissioner in such form and manner as may be prescribed.

(3) On the receipt of such application, the Commissioner, after such inquiry, if any, as he considers necessary, shall, by order in writing, either grant or refuse to grant the licence.

10 (4) Where the Commissioner refuses to grant a licence he shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant.

(5) The fees on payment of which, the period for which, the conditions subject to which and the form in which a licence may  
15 be granted shall be such as may be prescribed.

(6) The Commissioner may, after giving the holder of a licence a reasonable opportunity of being heard, suspend or cancel the licence on the following, or any one of the following grounds, namely:—

20 (a) that there has been a breach of any of the conditions subject to which the licence has been granted;

(b) that the holder of the licence has acted as a *panda* in contravention of the provisions of this Act.

(7) Whenever a licence is suspended or cancelled, the licensing  
25 authority shall record a brief statement of the reasons for such suspension or cancellation and furnish a copy thereof to the person whose licence has been suspended or cancelled.

(8) A licence granted under this section shall, unless cancelled earlier, continue in force for such period from the date on which it  
30 is granted, as may be prescribed.

(9) Every licence shall, unless the Commissioner for reasons to be recorded in writing otherwise decides in any case, be renewable for the same period for which the licence was originally granted and shall be so renewable from time to time and the fore-  
35 going provisions of this section shall apply to the renewal of a licence as they apply to the grant thereof.

50. (1) The trustee of every Hindu public religious endowment shall maintain a register in which the name and other prescribed particulars of every licensed *panda* shall be entered.

Other provisions relating to *pandas*.

(2) Every licensed *panda* shall on demand show his licence to every worshipper, devotee, pilgrim or other visitor at a Hindu public religious endowment.

(3) The State Government shall, after consultation with the Council and the Commissioner, lay down the scale of maximum and minimum charges for the various services rendered by the *pandas* at the various Hindu public religious endowments within the State and different scales of charges may be specified for different Hindu public religious endowments or for different classes thereof.

10

(4) The scale of charges specified under sub-section (3) for every Hindu public religious endowment shall be prominently displayed in one or more than one conspicuous place in that endowment.

(5) Any *panda* who takes more than the maximum charges from a worshipper, devotee, pilgrim or other visitor at the endowment or harasses in any way such worshipper, devotee, pilgrim or other visitor, may be suspended or dismissed by the trustee from the service and the licence granted to such *panda* may also be cancelled.

20

(6) The trustees of Hindu public religious endowments in important Hindu religious centres shall encourage the *pandas* to organise themselves to act as qualified guides to worshippers, devotees, pilgrims or other visitors who visit those endowments and shall make suitable arrangements for providing a short course of training to the *pandas* for this purpose.

(7) A trustee who contravenes the provisions of this section shall be punishable with fine which may extend to two hundred rupees.

Common  
Good  
Fund.

51. (1) It shall be lawful for the Commissioner to create a fund to be called the Hindu Public Religious Endowments Common Good Fund, hereinafter referred to as the Fund, out of the contributions voluntarily made by the Hindu public religious endowments within the State from their surplus funds or by any person, for the renovation and preservation of such endowments, and the buildings and paintings requiring such renovation and preservation and for the promotion and propagation of the tenets common to all or any class of such endowments.

(2) The Fund shall be administered by the Commissioner in such manner as may be prescribed.

40

52. (1) The trustee and the priest of every Hindu public religious endowment shall keep accounts of *pranamis* or *padakanikas*, that is to say, any gift of property or money made to such trustee or priest in his capacity as the head of the endowment or such priest, in such form as may be prescribed. Accounts of *padakanikas*

*Explanation.*—Any gift of property or money made to a trustee or priest which is not specifically designated as a personal gift to such trustee or priest shall be deemed to have been made to him in his capacity as the head, or, as the case may be, the priest of the endowment.

(2) The trustee or the priest shall be entitled to spend the *pranamis* or the *padakanikas* referred to in sub-section (1) in accordance with the rules, practices, usages or customs of the endowment concerned.

(3) Any *pranami* or *padakanika* which is not spent by the trustee or the priest during the tenure of his office in accordance with such rules, practices, usages or customs shall, after the termination of such tenure, form part of the property of the endowment.

53. (1) The trustee of every Hindu public religious endowment shall keep accounts in such form and containing such particulars as may be prescribed. Maintenance of accounts.

(2) The accounts kept under sub-section (1) shall be balanced in each financial year on the 31st day of March or such other date as may be fixed by the Commissioner in the case of any particular endowment having regard to the circumstances thereof.

(3) For the purpose of ensuring the proper keeping of accounts of any Hindu public religious endowment, the trustee—

(a) shall, where the annual income of the endowment is ten thousand rupees or more, appoint, after consultation with the Commissioner, a suitable person to be a full-time accountant of the endowment; and

(b) may, in any other case, appoint, after such consultation, a suitable person to be a full-time or part-time accountant.

54. (1) The accounts of every Hindu public religious endowment (including the accounts of *pranamis* and *padakanikas* referred to in section 52) having an annual income of not less than five thousand rupees shall be audited annually by an auditor to be appointed by the Commissioner, after consultation with the trustee, from among such chartered accountants, within the meaning of the Chartered Audit of accounts.

Accountants Act, 1949, as have been approved in this behalf by the State Government; and the accounts of every Hindu public religious endowment having an annual income of less than five thousand rupees, but not less than one thousand rupees, shall be audited annually by such person as may be appointed by the Commissioner after consultation with the trustee.

38 of 1949.

(2) The auditor shall have access to the accounts, books, vouchers, documents, papers and other records relating to such endowment in the possession or control of the trustee and may, by written notice, require the attendance before him of any person responsible for the preparation of the accounts to enable the auditor to obtain such information as he may consider necessary for the proper conduct of the audit.

(3) Within a month of the completion of the audit, the auditor shall prepare a report on the accounts audited and submit the same to the Commissioner and deliver a copy thereof to the trustee concerned.

(4) The auditor shall in his report specify all cases of irregular, improper or illegal expenditure or failure or omission to recover monies or other property belonging to the endowment or of loss or waste of money or other property thereof and state whether such expenditure, failure, omission, loss or waste was caused in consequence of any breach of trust or misapplication of trust property or any other misconduct on the part of the trustee or any other person.

(5) The cost of the audit of accounts shall be borne by the State Government from out of the contributions referred to in section 58.

Inspection  
and  
returns.

55. (1) The Commissioner, or any officer authorised by him by a general or special order, may—

(a) enter into or upon and inspect any endowment property with such assistance as he may consider necessary;

30

(b) call for or inspect any books, papers, records, correspondence, plans, accounts or title-deeds relating to the endowment in the possession or control of the trustee.

(2) If the Commissioner or any officer authorised by him is resisted or obstructed in the exercise of his powers conferred on him by sub-section (1), the magistrate having jurisdiction shall, on a written request from the Commissioner or such authorised officer, direct any police officer not below the rank of sub-inspector, to render such help as may be necessary to enable the Commissioner or such authorised officer to discharge the functions in exercise of such power.

40



(3) The Commissioner or any officer authorised by him under sub-section (1) or the police officer referred to in sub-section (2) shall, before entering into or upon any endowment property, give reasonable notice to the trustee and shall have due regard to the 5 rules, practices, usages or customs of the endowment.

(4) Nothing in this section shall be deemed to authorise any person to enter into or upon any part of the endowment property which is a place of worship or is the *garbha-griha* (*sanctum sanctorum*) or is regarded as specially sacred unless such person professes 10 the religion to which the endowment belongs.

56. The Commissioner and every other person exercising powers of superintendence and control under this Act shall not interfere with, and shall, as far as may be, observe, the forms and ceremonies appropriate to the religious endowment in respect of which powers 15 are exercised and in the case of a religious endowment which is a math, act in conformity with the rules, practices, usages or customs of the math in his dealings with the head of the math.

Observance of appropriate forms and ceremonies by Commissioner and others in certain cases.

57. If any question or dispute arises—

(a) as to whether a temple is a Hindu public religious endowment or not; or 20

(b) as to whether any matter is a matter of religion or any practice is an essential religious practice or not; or

(c) as to any matter of basic importance in relation to the administration and management of any Hindu public religious endowment, which in the opinion of the Commissioner requires 25 adjudication or decision by the Tribunal; or

(d) as to any rule, practice, usage or custom of any Hindu public religious endowment;

Determination of question as to whether a temple is a Hindu public religious endowment or not or of question as to custom, usage, etc.

such question or dispute shall be decided by the Tribunal:

30 Provided that when urgent action is called for, the Commissioner may decide such question or dispute and may in his discretion consult before deciding the question or dispute either the Council or where consultation with the Council is not practicable with reasonable despatch, such persons as he thinks fit, belonging to the denomination, sect or *sampradaya* to which the religious endowment belongs 35 and possessing in his opinion adequate qualifications making such persons fit for such consultation.

58. (1) For purposes of defraying the expenses in connection with the administration of this Act, the trustee of every Hindu public religious endowment, registered or deemed to be registered under this 40

Contributions.

Act, shall pay annually to the State Government in such manner and within such time as may be prescribed, such contributions by way of fees not exceeding three per cent. of its gross annual income as the State Government may determine.

(2) If any amount payable as contributions under sub-section (1) is not paid within the time prescribed, it shall be recoverable as an arrear of land revenue. 5

Trustee to carry out directions of Commissioner and to furnish returns, statistics and accounts.

59. (1) The trustee of every Hindu public religious endowment shall carry out all directions which may be issued to him by the Commissioner under any of the provisions of this Act. 10

(2) The trustee of every such endowment shall, within such time or such extended time as may be fixed by the Commissioner, furnish to the Commissioner such returns, statistics, accounts or other information as the Commissioner may require.

## CHAPTER V

15

### APPEAL AND REFERENCE

Appeals to Tribunal.

60. (1) Save as otherwise provided in this Act and unless the context otherwise requires, an appeal shall lie to the Tribunal from every order of the Commissioner made under this Act within a period of sixty days from the date of the making of such order. 20

*Explanation.*—For the purposes of this section, the Tribunal shall be deemed to be a court within the meaning of section 5 of the Limitation Act, 1963.

36 of 1963.

5 of 1908.

(2) The provisions of the Code of Civil Procedure, 1908, with respect to appeals from original decrees shall, as far as may be, apply to and in relation to appeals to the Tribunal from the orders of the Commissioner under this section as if such orders were decrees passed by a court exercising original jurisdiction and the Tribunal were a court authorised to hear appeals from the decisions of such courts under that Code. 30

Finality of orders and decisions.

61. The decision of the Tribunal on appeal under this Act and subject only to such decision, the order of the Commissioner from which an appeal lies to the Tribunal under this Act shall be final and conclusive.

Reference of cases to Tribunal by Commissioner.

62. (1) If at any time it appears to the Commissioner that a question of fact or of law relating to any matter dealt with in this Act has arisen or is likely to arise, which is of such a nature and of such public importance that it is necessary or proper to obtain the 35



decision of the Tribunal thereon, the Commissioner may either of his own motion or on the application of any person interested in a Hindu public religious endowment draw up a statement on the question and refer such statement with his own opinion on the question for the decision of the Tribunal.

(2) The Tribunal after hearing the Commissioner and the person on whose application the reference was made and any other person interested in any Hindu public religious endowment who may desire to be heard, shall decide the question so referred setting out the grounds on which such decision is founded and a copy of the decision of the Tribunal shall be transmitted to the Commissioner who shall act, if necessary, according to such decision.

## CHAPTER VI

### MISCELLANEOUS

63. (1) Every inquiry made under this Act shall be held, as near-ly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits:

Procedure  
and  
powers at  
inquiries.

Provided that rules may be made under this Act with respect to the procedure for an inquiry under this Act in so far as the provisions of the Code of Civil Procedure, 1908, are not applicable to such procedure.

(2) The Commissioner shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:—

(a) The summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the requisitioning of any public record from any court or office;

(e) the issuing of any commission for the examination of witnesses;

(f) any other matter which may be prescribed.

Offences  
and  
penalties.

64. (1) If any person—

(a) fails to apply for the registration of a Hindu public religious endowment within the time specified in sub-section (6) of section 15; or

(b) resists or obstructs the Commissioner or any officer in the exercise of his power under clause (a) or clause (b) of sub-section (1) of section 55; or

(c) furnishes or causes to be furnished to the Commissioner any return, statistics, account or other information which is false and which he either knows or believes to be false or does not believe to be true,

he shall be punishable with fine which may extend to one thousand rupees.

(2) No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made either by the Commissioner or by a Deputy Commissioner or an Assistant Commissioner specially authorised by the Commissioner by writing in this behalf.

(3) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try an offence punishable under this Act.

Jurisdiction of civil courts barred.

65. Notwithstanding anything contained in any other law for the time being in force, no civil court shall entertain any suit or proceeding in so far as it relates to any question or matter which the Commissioner or the Tribunal is empowered by this Act to deal with and decide.

Notice of certain suits to be given to the Commissioner.

66. (1) In every suit or proceeding (except in a suit instituted by a trustee for the recovery of the arrears of rents and proceedings in execution of the decree passed in such suit) in respect of any Hindu public religious endowment or property pertaining thereto or in respect of any specific endowment, whether instituted by a trustee or by any other person, the court shall send to the Commissioner by post a notice of the institution thereof.

(2) The Commissioner may apply to the court in which any such suit or proceeding is pending, to be added as a party to the suit or proceeding and shall thereupon be added as a party thereto.

(3) If the notice referred to in sub-section (1) is not sent to the Commissioner, the decree or order passed or made in the suit or proceeding whether by the court of the first instance or by an appellate court shall not be binding on the Commissioner and shall,

if the Commissioner makes an application to the appropriate court in this behalf, be set aside and the suit or the proceeding shall be tried by the court of the first instance after adding the Commissioner as a party thereto.

5 *Explanation.*—In this sub-section “appropriate court” means,—

(a) in the case of an original decree or order, the court of the first instance;

(b) where the original decree or order has merged in the appellate decree or order, the appellate court.

10 67. No suit, prosecution or other legal proceeding shall lie against the Central Government or any State Government or the Commissioner or the Tribunal or any member of the Council or any officer or authority under this Act for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order  
15 made thereunder.

Protection of action taken in good faith.

68. Any order made under this Act which is capable of execution as a decree or order of a civil court shall, on an application made in this behalf by the Commissioner or any person in whose favour such order is made, be enforced by a civil court within the local limits of  
20 whose jurisdiction the endowment property or any portion thereof is situate in the same manner as if such order were a decree passed by such court.

Execution of orders of the Commissioner.

45 of 1860. 25 69. The Commissioner and every Deputy and Assistant Commissioner shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Commissioner, etc., to be public servants.

70. Unless the State Government otherwise directs by notification in the Official Gazette, nothing in this Act shall apply to any Hindu public religious endowment or any class of such endowments, to which any special enactment applies.

Application of Act to endowments governed by special enactments.

30 71. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters, namely:—

35 (a) the manner of nomination of members of the Council;

(b) the form and manner of making application for the registration of a Hindu public religious endowment and the particulars it may contain and the manner of inquiry for the purpose of registration of a religious endowment;

(c) the manner of issue of notice— 5

(i) under sub-section (4) of section 26;

(ii) for the settlement of a scheme;

(iii) to interested persons before filling any vacancy in the office of trustee;

(iv) in any other case where notice is required to be issued; 10

(d) the manner of inquiry—

(i) into any case under section 26;

(ii) for the the settlement of a scheme;

(iii) where an endowment is mismanaged; 15

(iv) into any other matter under this Act;

(e) the service of notices and orders under this Act;

(f) the procedure to be followed by the Commissioner in holding an inquiry under this Act;

(g) the form of the register of Hindu public religious endowments maintained under section 14 and the particulars it may contain and the form of report notifying any change in the entry in the register; 20

(h) the levy and collection of fees in respect of any application under this Act for the registration of a Hindu public religious endowment and supply of copies of, or extracts from, the register maintained under section 14; 25

(i) the form in which and the time within which the budget in respect of a Hindu public religious endowment may be prepared and the manner of giving notice to the trustee before making any alteration or modification in the budget; 30

(j) the form and manner in which accounts of Hindu public religious endowments may be maintained and the particulars which such accounts may contain;

(k) the time at which and the manner in which the accounts may be audited; 35

(l) the form and manner in which any report, return, statistics or other information may be furnished to the Commissioner by any trustee under this Act;

(m) the manner in which and the time within which contributions are to be paid by the trustee of a Hindu public religious endowment;

5 (n) the conditions of service of priests and the code of conduct to be followed by them;

(o) the syllabus for the training of priests;

(p) the training, and the selection for such training, of *sadhus* and *sanyasis*, the manner of, and syllabus for, such training;

10 (q) the scales of fees and charges which the worshippers devotees, pilgrims or other visitors at a Hindu public religious endowment shall pay to the priests for services rendered by them to such worshippers, devotees, pilgrims or other visitors and the manner of publication of the specified scales of fees and charges;

15 (r) the form of printed receipts which are to be granted by the priests for payments made to them by worshippers, devotees, pilgrims or other visitors and the form in which accounts of *pranamis* or *padakanikas* are to be kept;

20 (s) the conditions and restrictions subject to which the accumulated surplus of a Hindu public religious endowment may be appropriated by a trustee, the manner of publication of the proposal for the utilisation of such surplus and the manner of publication of the sanction of the Commissioner;

25 (t) the manner of administration of the Hindu Public Religious Endowments Common Good Fund;

(u) any other matter which is to be or may be prescribed or provided for by rules or with respect to which it is necessary in the opinion of the State Government to make rules.

30 72. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, as occasion requires, do anything which appears to it to be necessary for the purpose of removing the difficulty. Power to remove difficulties.

35 73. (1) On the commencement of any provisions of this Act in any State, any law applicable immediately before such commencement to Hindu public religious endowments in that State and corresponding to those provisions shall cease to apply to such endowments. Cesser of application of corresponding laws and savings.

(2) Notwithstanding the cesser of application of any such law, anything done or any action taken (including any appointment made, any direction given, any register maintained, any scheme framed, any rule or order made or any restriction or limitation imposed) under such law in relation to Hindu public religious endowments shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act as if such provisions were in force when such thing was done or such action was taken and shall continue in force accordingly until superseded by anything done or any action taken under this Act.

## STATEMENT OF OBJECTS AND REASONS

The Hindu Religious Endowments Commission was appointed on 1st March, 1960, under section 3 of the Commissions of Inquiry Act, 1952, for the purpose of making an inquiry into certain matters connected with Hindu public religious endowments. The Commission submitted its report, containing *inter alia* 114 recommendations to the Government of India on 31st May, 1962. Some of the recommendations relate to general policy and some are of an administrative nature and there are also a few recommendations relating to particular temples and maths. The Commission has emphasized the imperative necessity for undertaking suitable legislation, particularly in States having no legislation governing Hindu religious endowments, namely, Assam, Punjab, West Bengal and Uttar Pradesh. The Report was laid on the Table of each House of Parliament on 10th August, 1962.

2. As the subject of religious endowments falls in the concurrent field of legislation (entry 28, List III of the Seventh Schedule to the Constitution), the Report was circulated to the State Governments and to the Administrators of Union territories for their views. After considering the comments received from the State Governments and the Administrations of Union territories and the comments sent by various institutions and individuals with reference to the Report of the Commission, Government have decided to give effect practically to all the principal recommendations of the Commission in so far as they are capable of implementation by legislation. The Bill is intended to give effect to this decision and will extend to the whole of India except Jammu and Kashmir and apply to all Hindu public religious endowments (that is, to all maths and public temples) including Buddhist religious endowments.

3. The notes on clauses explain the salient features of the Bill.

NEW DELHI;  
The 7th July, 1965.

A. K. SEN.

*Notes on clauses*

*Clause 1.*—The Bill when enacted will extend to the whole of India except the State of Jammu and Kashmir because entry 28 of the Concurrent List,—“Charities and charitable institutions, charitable and religious endowments and religious institutions”—has not been extended to the State of Jammu and Kashmir.

Power to bring the Act into force has been given to the State Governments except in respect of clauses 8 to 13 which provide for the Central Council and Central Tribunal. Power in respect of these latter clauses has been given to the Central Government.

*Clause 2.*—Special attention is drawn to the definitions of “math”, “person interested”, “priest”, “public temple”, “religious endowment” and “trustee”.

*Clauses 3 and 70.*—Clause 3 provides that the Act will apply to all Hindu public religious endowments, that is to say, to all maths (*vide* recommendation No. (6) on page 174 of the Report) and all public temples [*vide* the second paragraph of recommendation No. (4) on page 173]. Hindu public religious endowments will include Buddhist religious endowments also. Jain religious institutions have, however, been excluded from the purview of the Bill. The reasons for such exclusion are several and have been noted in the Report of the Hindu Religious Endowments Commission itself. In the first place, Jain religious institutions are managed by elected bodies and are, by and large, very well run; “cases of mismanagement are very few. If and when such cases arise, the acharyas, and sadhus and sangh deal with them and set matters right. Public opinion and public pressure are such that the defaulter ordinarily makes good the loss unless his condition is such as to make it impossible for him to do so,” (*vide* para. 14 of Chapter IX of the Report). In the second place, Jains do not have any mohant in charge of religious institutions in order to do anything corresponding to the shebait of Hindu temples and as a matter of fact their acharyas do not own any property or accept any offerings (*vide* para. 6, *ibid.*). In the third place, hereditary trusteeship is not prevalent among the Jains. Trustees keep the accounts relating to the endowment and submit them to the Sangh every year (*vide* para. 14, *ibid.*). In the next place, the standard of cleanliness maintained in Jain temples is very



nigh. The Jain community takes a great deal of enlightened interest in the maintenance of their shrines and in the maintenance of a proper and serene religious atmosphere surrounding them. The stupendous activity in the direction of repair, expansion and renovation work connected with these temples some of which are of great architectural beauty... is such that it is worthy of healthy emulation by Hindu temples and organizations (*vide* para. 35, *ibid.*). All these salutary features noted by the Commission in connection with the management of Jain temples may suffer adversely because of possible interference by the various statutory authorities proposed to be set up in the Bill. Accordingly Jain religious institutions have been excluded from the purview of the Bill.

Under clause 70 unless the State Government otherwise directs, the provisions of the Act will not apply to any Hindu public religious endowment if in respect thereof there is any special enactment in force such as the Badrinath and Kedarnath Temples, the Puri Temple, the Tirupati Temple, the Bodh Gaya Temple, etc.

*Clause 4.*—The various authorities for the effective administration of Hindu public religious endowments have been mentioned in this clause. The principal authorities will be the Commissioner, the Central Religious Endowments Council and the Religious Endowments Tribunal.

*Clauses 5 to 7.*—These clauses deal with appointment, conditions of service, powers and functions of the Commissioner and his deputies and assistants [*vide* paragraph 17 on pages 124-125 and recommendations Nos. (58) and (59) on page 183 of the Report].

*Clauses 8 and 9.*—Clause 8 provides for the constitution by the Central Government of a Central Religious Endowments Council representing various interests (including sadhus and sanyasis) and the State Governments [*vide* the last portion of the first paragraph on page 126 and recommendation No. (62) on page 183 of the Report].

Under clause 9, the Council shall perform such functions as may be conferred on it by the Act and the rules made thereunder. It has been provided throughout the Bill that the Commissioner and the State Government shall in respect of several important matters consult the Council before taking action.

*Clauses 10 and 13.*—Clause 10 provides for the constitution of a Religious Endowments Tribunal on an all-India basis and clause 13 provides for the constitution and procedure of the Tribunal [*vide* paragraphs 20 and 21 on pages 127-28 and recommendations Nos. (64) to (69) on pages 184-85 of the Report]. The Chairman of the Tribunal shall be a person who has been, or is, or is qualified to be,

appointed as a High Court Judge. The other members shall be persons who have either held senior administrative offices under the Government and have adequate administrative and financial experience for not less than ten years under the Government, or who are specially conversant with Hindu scriptures and religion and religious practices and with the working of Hindu religious endowments.

*Clauses 11, 26, 57, 60, 61, 62, etc.*—These clauses deal with the various important functions of the Tribunal [*vide* paragraph 20 on page 127 and recommendations Nos. (64) and (70) on pages 184-85 of the Report]. The Tribunal will have original as well as appellate jurisdiction. An appeal will lie to the Tribunal from the decisions of the Commissioner and the Tribunal will have exclusive original jurisdiction in regard to certain matters, *e.g.*, (i) succession and appointment to hereditary offices, such as hereditary trustees, heads of maths, etc., (ii) determination of what are matters of religion or essential religious practices and what are ancillary and unessential accretions, and (iii) such other matters of basic importance in relation to the administration and management of temples, maths, etc., which in the opinion of the Commissioner, require adjudication or decision by the Tribunal.

*Clause 12.*—This clause deals with appointment of assessors to aid the Tribunal in the discharge of its functions [*vide* recommendation No. (66) on page 184 of the Report].

*Clauses 14 to 21.*—These clauses deal with registration of all Hindu public religious endowments with the Commissioner.

*Clauses 22, 24 and 25.*—These clauses deal with appointment and succession to the office of trustee, disqualifications for trusteeship, removal of trustees, etc. [*vide* paragraph 24 at page 101 and recommendations Nos. (38) to (41) at pages 180-81 and recommendation No. (57) at page 183 of the Report]. Appointment and succession to office of trustee will be regulated by rules, practices, usages or customs of the religious endowment concerned with respect to such appointment or succession.

*Clause 23.*—This clause provides that the Hindu Succession Act, 1956, shall not apply to succession to the office of trustee [*vide* paragraph 25 on page 101 and recommendation No. (42) on page 181 of the Report].

*Clause 27.*—This clause empowers the Commissioner to suspend a trustee in cases of urgency and to report the action taken to the

Tribunal [*vide* recommendation No. (63) on pages 183-84 of the Report].

*Clauses 28 and 29.*—These clauses do not call for any comment [*vide* recommendations Nos. (27) and (29) on pages 177-78 of the Report]. The administration and management of every Hindu public religious endowment will vest in the trustee thereof.

*Clause 30.*—This clause provides for the preparation and maintenance by the trustee of a register in the prescribed form in relation to the religious endowment.

*Clause 31.*—This clause relates to the power of the Commissioner in cases of mismanagement and is consequent upon the general powers of supervision and control to be exercised by the Commissioner over Hindu public religious endowments.

*Clauses 32, 33, 34, 35 and 36.*—These clauses relate to the preparation of budgets by trustees of public religious endowments and the provisions to be made therein for carrying out obligatory objects and discretionary objects [*vide* recommendations Nos. (28), (30), (31), (34) and (35) at pages 178—80 and recommendation No. (71A) at page 185 of the Report].

*Clause 37.*—This clause empowers the Commissioner to frame a scheme for proper administration of any Hindu public religious endowment and follows from the general powers of the Commissioner as recommended by the Commission.

*Clause 38.*—This clause provides for the application of the property *cy pres* [*vide* recommendations Nos. (36) and (37) on page 180 of the Report] on the lines of sections 13 and 14 of the U.K. Charities Act, 1960.

*Clause 39.*—This relates to investment of endowment money in what may be called gilt-edged securities and follows out of the recommendations relating to the proper and efficient management of endowment properties.

*Clause 40.*—This clause provides for the alienation (by way of sale, mortgage, exchange or gift, or by way of lease for over three years) of immovable property belonging to an endowment only with the previous sanction of the Commissioner and follows more or less recommendation No. (52) and recommendation No. (56) made on pages 182-83 of the Report.

*Clauses 41, 42, 43 and 44.*—These clauses prohibit *archana* and *pūja* in maths and public temples by unqualified priests after the

expiry of two years from the commencement of the Act, provide for the qualifications to be possessed by priests, the setting up of schools for the training of priests and the syllabus for elementary and advanced training in such schools and the contributions to be made by the various Hindu public religious endowments towards the expenses of the schools and other institutions [*vide* recommendations Nos. (8), (9), (10) on pages 174-175 and Nos. (31) and (32) on page 178 of the Report].

*Clauses 45 and 52.*—These clauses provide that trustees and priests should have no proprietary rights over any gifts or offerings, *pranamis* or *padakanikas* made by worshippers, devotees, etc., unless they have been specifically designated as personal to the trustee or priest [*vide* recommendations Nos. (4), (7) and (11) on pages 173, 174 and 175 and recommendation No. (26) on page 177 of the Report].

*Clause 46.*—This clause provides for the preparation of codes of conduct for the priests by the Commissioner after consultation with the Council [*vide* recommendation No. (14) on page 176 and the latter part of recommendation No. (22) on page 177 of the Report].

*Clause 47 and clause 50 (3) to (5).*—These provisions seek to regulate all fees paid by worshippers, devotees and other visitors [*vide* recommendations Nos. (15) and (23) on pages 176 and 177 of the Report].

*Clause 48.*—This clause deals with the emoluments and other conditions of service of *archakas* and *pujaris* [*vide* recommendations Nos. (12) and (13) on pages 175-76 of the Report].

*Clauses 49 and 50.*—These clauses deal with special provisions relating to *pandas*, their licensing and the prescription of the scale of maximum and minimum charges for the services rendered by them, etc. [*vide* recommendations Nos. (20), (21), (22) and (25) on page 177 of the Report].

*Clause 51.*—This clause provides for the creation of a Common Good Fund [*vide* recommendation No. (33) on pages 178-79 of the Report] out of contributions voluntarily made by Hindu public religious endowments from their surplus funds or by any person, for the renovation and preservation of such endowments, etc.

*Clauses 53, 54 and 55.*—These clauses are based on recommendations No. (28) on page 178 and (71A) on page 185 of the Report and relate to maintenance of accounts by trustees and their audit, and power of the Commissioner to inspect any endowment property and to call for returns, etc., from trustees.

*Clause 56.*—This clause is necessary in view of the provisions of the Constitution contained in article 26.

*Clause 57.*—This clause to which reference has already been made in connection with the functions of the Tribunal is based upon recommendations No. (61) on page 183 and (64) (b) and (c) on page 184 of the Report.

*Clause 58.*—This clause deals with the contributions to be made by the various Hindu public religious endowments for the purpose of defraying the expenses in connection with the administration of the Act.

*Clause 59.* —This clause is ancillary to the general powers of the Commissioner.

*Clauses 60, 61 and 62.*—These clauses deal with appeals to the Tribunal and references to it by the Commissioner.

*Clauses 63 to 70.*—These clauses provide for miscellaneous matters which are incidental or ancillary to the foregoing provisions.

*Clause 71.*—This clause gives power to the State Government to make rules to carry out the purposes of the Act.

*Clause 73.*—This clause provides that on the commencement of the Act in any State, any law applicable to any Hindu public religious endowment shall cease to apply to such endowment; actions taken or things done before such commencement under the old law are, however, saved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 71 of the Bill empowers the State Government to make rules to carry out the purposes of the Act. The matters in respect of which such rules may be made have been specified therein. They relate *inter alia* to the form and manner of making applications for registration of Hindu public religious endowments, the levy and collection of fees in respect of such registration, the form of the register, the manner of making certain inquiries, the service of notices and orders, the form of the budget of a Hindu public religious endowment, the form and manner in which the accounts of such endowment may be maintained and the audit of such accounts, the form and manner in which reports, returns, etc., have to be furnished, the conditions of service of priests and their training, the scales of fees and charges payable to the priests for services rendered by them to worshippers, pilgrims, etc., the conditions and restrictions subject to which the accumulated surplus of the religious endowment may be utilized by a trustee and the administration of the Hindu Public Religious Endowments Common Good Fund. All these matters are matters of detail or of administrative character.

2. The delegation of legislative power is thus of a normal character.

## BILL NO. 41 OF 1965

*A Bill to declare the Khuda Bakhsh Oriental Public Library at Patna to be an institution of national importance and to provide for its administration and certain other connected matters.*

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

- 5 1. (1) This Act may be called the Khuda Bakhsh Oriental Public Library Act, 1965. Short title  
and com-  
mence-  
ment.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.



Declara-  
tion  
of Khuda  
Bakhsh  
Oriental  
Public  
Library as  
an institu-  
tion of  
national  
importance.

2. It is hereby declared that the Khuda Bakhsh Oriental Public Library at Patna in the State of Bihar is an institution of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "Board" means the Board established under section 4;

(b) "Chairman" means the Chairman of the Board;

(c) "deed of trust" means the deed of trust No. 217 executed in the office of the Deputy Registrar of Patna by the late Maulvi Khuda Bakhsh Khan Bahadur of Muradpur on the 14th January, 1891;

(d) "Fund" means the Fund referred to in section 19;

(e) "library" means the Khuda Bakhsh Oriental Public Library declared to be an institution of national importance under this Act;

(f) "member" means a member of the Board and includes the Chairman;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "State Government" means the Government of Bihar.

## CHAPTER II

### THE KHUDA BAKHSH ORIENTAL PUBLIC LIBRARY BOARD

Establish-  
ment and  
incorpora-  
tion of  
Board.

4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act, a Board to be known as the Khuda Bakhsh Oriental Public Library Board.

(2) The Board shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and contract, and may, by that name, sue and be sued.

Composi-  
tion of  
Board.

5. (1) The Board shall consist of the following persons, namely:—

(a) the Governor of Bihar, *ex officio*, Chairman;

(b) the Accountant General, Bihar, *ex officio*;

(c) a person to be nominated by the Central Government, who shall be a member of the family of the late Maulvi Khuda

Bakhsh Khan Bahadur of Muradpur;

(d) eight persons, four each to be nominated by the Central Government and the State Government, who shall, as far as possible, be persons having knowledge of, and experience in, matters relating to the administration of libraries.

(2) Every nomination under this section shall take effect as soon as it is notified by the Central Government in the Official Gazette.

6. (1) The term of office of nominated members shall be such as may be prescribed.

(2) Any nominated member may resign his office by giving notice in writing to the Central Government, and on such resignation being notified by the Central Government in the Official Gazette, shall be deemed to have vacated his office.

(3) A casual vacancy created by the resignation of a nominated member under sub-section (2) or for any other reason may be filled by fresh nomination by the Central Government or the State Government, as the case may be, and a member so nominated shall hold office for the remaining period for which the member in whose place he is nominated would have held office.

(4) An outgoing member shall be eligible for renomination.

(5) If any nominated member is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his office, the Central Government or the State Government, as the case may be, may nominate another person to act in his place during his absence.

7. No act of the Board shall be invalid merely by reason of—

(a) any vacancy in, or defect in the constitution of, the Board, or

(b) any defect in the nomination of a person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case.

8. (1) Before nominating a person to be a member of the Board, the Central Government or the State Government, as the case may be, shall satisfy itself that the person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member, and the Central Government or the State Government, as the case may be, shall also

Term of office and fresh nomination in certain cases.

Vacancies, etc., not to invalidate acts.

Duty of Government nominating persons, etc.

satisfy itself from time to time with respect to every member nominated by it that he has no such interest; and any person who is or whom the Central Government or the State Government, as the case may be, proposes to nominate and who has consented to be, a member shall, whenever requested by the Central Government or the State Government so to do, furnish to it such information as that Government considers necessary for the performance by it of its duties under this sub-section. 5

(2) A nominated member who is in any way, directly or indirectly, interested in a contract made or proposed to be made, by the Board shall, as soon as possible, after relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the Board and the member shall not take any part after the disclosure in any deliberation or decision of the Board with respect to that contract. 10 15

Meetings  
of Board.

9. (1) The Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2), (3) and (4), observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made under this Act. 20

(2) The Chairman or, in his absence, any member chosen by the members present from among themselves, shall preside at a meeting of the Board.

(3) If any nominated member, being an officer of Government, is unable to attend any meeting of the Board, he may, with the previous approval of the Chairman, authorise any person in writing to do so. 25

(4) All questions at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman or, in his absence, the member presiding, shall have a second or casting vote. 30

Temporary  
asso-  
ciation of  
persons  
with Board  
for parti-  
cular  
purpose.

10. (1) The Board may associate with itself in such manner and for such purposes as may be provided by regulations made under this Act, any person whose assistance or advice it may desire in performing any of its functions under this Act. 35

(2) A person associated with it by the Board under sub-section (1) for any purpose shall have the right to take part in the discussions of the Board relating to that purpose, but shall not, by virtue of this section, be entitled to vote.

11. All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of an officer of the Board authorised in like manner in this behalf.

Authenti-  
cation of  
orders  
and other  
instru-  
ments  
of Board.

12. (1) Subject to the provisions of sub-section (2), the Board may, for the purpose of enabling it efficiently to perform its functions under this Act, appoint such number of officers and other employees as it may think fit.

Staff of  
Board.

10 (2) The recruitment and conditions of service of such officers and employees shall be such as may be provided by regulations made under this Act.

13. Subject to the provisions of this Act, every person employed in the library immediately before the date of establishment of the Board shall, on and from such date, become an employee of the Board with such designation as the Board may determine and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions as he would have held the same on such date if the Board had not been estab-  
lished and shall continue to do so unless and until his employment in the Board is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Board:

Transfer  
of service  
of existing  
emplo-  
yees to  
Board.

Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the previous approval of the Central Government.

14. The library shall be located at Patna.

Location  
of  
library.

### CHAPTER III

#### PROPERTY, LIABILITIES AND FUNCTIONS OF THE BOARD

15. (1) On the establishment of the Board—

30 (i) all properties, funds and dues which are vested in, or realisable by, the trustees of the library constituted by the deed of trust, in their capacity as such, shall vest in, and be realisable by the Board; and

Property  
and liabi-  
lities of  
Board.

35 (ii) all liabilities in relation to the library which are enforceable against the said trustees, shall be enforceable only against the Board.

(2) All properties, which may, after the establishment of the Board, be given, bequeathed or otherwise transferred to the library or acquired by the Board, shall vest in the Board.

**Duties of Board.**

16. (1) Subject to the provisions of the deed of trust, it shall be the general duty of the Board to manage the library and to plan; promote, organise and implement programmes for the development of the library on modern scientific lines and to perform such other functions as the Central Government may, from time to time, assign to the Board.

(2) In particular and without prejudice to the generality of the foregoing provision, the Board may take such steps as it thinks fit—

(a) for providing for instruction and research in matters relating to libraries and for the advancement of learning and dissemination of knowledge in such matters; and

(b) to do all such other things as may be necessary for the discharge of its functions under this Act.

**Powers of Board.**

17. (1) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may exercise all such powers as may be necessary or expedient for the purpose of carrying out its duties under this Act.

(2) Subject to such regulations as may be made by the Board in this behalf, the Board may from time to time purchase or otherwise acquire such manuscripts, books, articles or things as may, in the opinion of the Board, be worthy of preservation in the library

**CHAPTER IV****FINANCE, ACCOUNTS, AUDIT AND REPORTS****Grants by Central Government to Board.**

18. For the purpose of enabling the Board to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Board in each financial year such sums of money as that Government considers necessary by way of grant, loan or otherwise.

**Fund of Board.**

19. (1) The Board shall maintain a Fund to which shall be credited—

- (a) all moneys paid by the Central Government;
- (b) such sums of money as the State Government may pay annually having regard to its resolution No. V/L 4055/60E 120, dated the 26th September, 1962;
- (c) all fees and other charges levied under this Act;
- (d) all moneys received by the Board by way of grant, gift, donation, benefaction, bequest, subscription, contribution or transfer;

(e) all other moneys received by the Board in any other manner or from any other source,

(2) The Board may expend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the Fund.

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(3) A sum of money not exceeding such amount as may be provided by regulations made under this Act may be kept in current account with any scheduled bank as defined in section 2 of the Reserve Bank of India Act, 1934, or any other bank approved by the Central Government in this behalf, but any moneys in excess of that sum shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India or invested in such manner as may be approved by the Central Government.

Budget.

20. (1) The Board shall, by such date in each year as may be specified by the Central Government, submit to it for approval a budget for the next financial year in the form specified by it, showing the estimated receipts and expenditure, and the sums which would be required from the Central Government during that financial year.

(2) If any sum granted by the Central Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the Central Government for that year.

(3) Subject to the provisions of sub-section (4), no sum shall be expended by or on behalf of the Board, unless the expenditure is covered by provision in the budget approved by the Central Government.

(4) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may sanction any reappropriation from one head of expenditure to another or from a provision made for one purpose to that for another purpose.

21. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be specified, and in accordance with such general directions as may be issued by the Central Government in consultation with the Comptroller and Auditor-General of India, Accounts and audit.



(2) The accounts of the Board shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Board, and the library.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Returns  
and  
reports.

22. (1) The Board shall furnish to the Central Government at such time and in such form and in such manner as the Central Government may direct such returns, statements and particulars as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall be authenticated by the signature of an officer of the financial year, submit to the Central Government within such time as may be specified by the Central Government a report giving true and full account of the activities of the Board during the previous financial year and an account of activities likely to be undertaken during the current financial year.

## CHAPTER V

### MISCELLANEOUS

Power of  
Central  
Govern-  
ment to  
issue  
directions  
to Board.

23. (1) In the discharge of its functions under this Act, the Board shall be bound by such directions on questions of policy as the Central Government may give to it from time to time:

Provided that the Board shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

Delega-  
tion of  
powers  
and  
duties.

24. The Board may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or dis-



charged also by any member, officer or employee of the Board specified in this behalf in the order.

45 of 1899. 25. All officers and employees of the Board shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Officers and employees of Board to be public servants.

26. No suit, prosecution or other legal proceeding shall lie against the Board or any member, officer or employee of the Board for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

Protection of action taken under the Act.

27. (1) The Central Government may, after consultation with the Board, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office of, and the manner of filling casual vacancies among, the members nominated under clauses (c) and (d) of sub-section (1) of section 5;

20 (b) the travelling and other allowances payable to a member other than the Chairman and to a person associated with the Board under Section 10;

25 (c) the disqualifications for membership of the Board and the procedure to be followed in removing a member who is or becomes subject to any disqualification;

(d) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of the Board;

(e) any other matter which has to be or may be prescribed.

30 (3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule

shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of  
Board to  
make regu-  
lations.

28. (1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, for enabling it to discharge its functions under this Act. 5

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:— 10

(a) the conditions and restrictions subject to which manuscripts and books in the library may be used;

(b) the manner in which, and the purposes for which, persons may be associated with the Board; 15

(c) the time and place of meetings of the Board, the procedure to be followed in regard to the transaction of business at such meetings and the quorum necessary for the transaction of business at a meeting;

(d) the maintenance of minutes of meetings of the Board and the transmission of copies thereof to the Central Government; 20

(e) the recruitment and conditions of service of officers and other employees of the Board;

(f) the persons by whom and the manner in which, payments, deposits and investments may be made on behalf of the Board; 25

(g) the maximum amount that may be kept in the current account;

(h) the maintenance of registers and accounts; 30

(i) the compilation of catalogues and inventories of the manuscripts, books and other articles and things in the library;

(j) the steps to be taken for the preservation of the manuscripts, books and other articles and things in the library;

(k) the general management of the library;

(l) the fees and other charges to be levied for the use of manuscripts and books in the library;

5 (m) any other matter in respect of which provision is, in the opinion of the Board, necessary for the performance of its functions under this Act.

(3) The Central Government may, after consultation with the Board, by notification in the Official Gazette, amend, vary or rescind any regulation which it has approved; and thereupon the regulation  
10 shall have effect accordingly, but without prejudice to the exercise of the powers of the Board under sub-sections (1) and (2).

## STATEMENT OF OBJECTS AND REASONS

The Khuda Bakhsh Oriental Public Library, Patna, was built out of the valuable personal collections of Arabic and Persian manuscripts and books of the late Maulvi Muhammad Bakhsh Khan. Later on his son, the late Khuda Bakhsh, added to this collection. In 1891 Maulvi Khuda Bakhsh executed a deed of trust appointing the then Government of Bengal as trustees for the management of the Library. The Government of Bihar (as successor Government) are now the trustees. At present the Khuda Bakhsh Oriental Public Library, Patna, is being administered by a Board of Management, set up by the Government of Bihar in consonance with the terms of the deed of trust and in consultation with the Central Government.

The Government of Bihar have agreed to transfer the control of the Library to the Central Government on the following conditions:—

- (i) that the Library or any of its possessions should not be removed outside the limits of the Patna Municipal Corporation;
- (ii) that the State Government is given an adequate representation in the Managing Body of the Library; and
- (iii) that the State Government's share of expenditure should not exceed Rs. 50,000 per annum.

The present premises of the Library will be handed over by the Government of Bihar to the Central Government free of cost.

Having regard to the importance and value of the collections in the Library and to the need for reorganising and developing the Library on modern scientific lines, it is considered that it should be declared to be an institution of national importance under entry 62 in List 1 of the Seventh Schedule to the Constitution. The Bill seeks to give effect to this proposal and makes provision mainly for the following:—

- (1) the establishment of a Board consisting of eleven persons for the administration of the Library and the vesting in the Board of the property of the Library;
- (2) transfer of the existing staff to the Board;

(3) the issue of directions by Government to the Board in the discharge of its functions, the submission by the Board of annual budget estimates and reports to Government, the deposit of funds in the Reserve Bank, etc., and the annual audit of the accounts of the Board by the Comptroller and Auditor General of India.

NEW DELHI;

M. C. CHAGLA.

*The 13th July, 1965.*

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PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF  
THE CONSTITUTION OF INDIA

[Copy of letter No. F. 3-4/64-C.2, dated the 29th July, 1965 from Shri M. C. Chagla, Minister of Education to the Secretary, Lok Sabha].

The President having been informed of the subject matter of the Khuda Bakhsh Oriental Public Library Bill, 1965 has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended the consideration of the Bill by the Lok Sabha.

## FINANCIAL MEMORANDUM

Clause 17(2) of the Bill empowers the Board to purchase or otherwise acquire such manuscripts, books, articles or things as may, in the opinion of the Board, be worthy of preservation in the Library. Clause 18 confers power on the Central Government to pay to the Board in each financial year such sums of money as it may think fit to enable the Board to discharge its functions efficiently. The State Government of Bihar have agreed to meet an expenditure of Rs. 50,000 per annum on the maintenance of the Library.

2. The present premises of the Library will be handed over by the Government of Bihar to the Central Government free of cost. The question of Government of India bearing the capital cost towards the construction of the building, etc., may be considered at a later stage on the recommendation of the Board of Management. It may be necessary to provide more accommodation after the control of the Library is assumed by the Central Government through the Board of Management. Its immediate need may be met by a small extension of the existing building. Provision for equipment and air-conditioning may also have to be made. Tentative estimates for the former place the figure at Rs. 3,00,000 ; while for the latter also the same figure is indicated.

3. A recurring expenditure of about Rs. 1,00,000 on the maintenance of the Library will also be borne by the Government of India. This is in addition to the contribution of the Government of Bihar towards recurring expenditure @ Rs. 50,000 per annum.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 27 of the Bill empowers the Central Government to make rules to give effect to the provisions of the Act. The matters in respect of which such rules may be made relate to the term of office of members and the manner of filling casual vacancies among them, the allowances payable to members other than the Chairman and to persons associated under clause 10, the disqualification for membership of the Board and the procedure to be followed in removing members subject to disqualification, the conditions subject to which and the mode in which contracts may be entered into by or on behalf of the Board. All these matters are comparatively of a minor importance and are normally the subject-matter of delegated legislation, and the rules will also be laid before Parliament.

2. Clause 28 of the Bill empowers the Board to make regulations not inconsistent with the provisions of the Act and the rules made thereunder. The power of making regulations is confined to procedural matters, such as the conditions and restrictions subject to which manuscripts and books in the Library may be used, the recruitment and conditions of service of officers and employees of the Board, the time and place of meetings of the Board, the procedure to be followed at such meetings, the maintenance of minutes of meetings of the Board and the transmission of copies thereof to Government, the maintenance of registers and accounts, the compilation of catalogues and inventories of books, manuscripts, articles and things in the Library, the fees and other charges to be levied, etc. The power of making regulations is thus confined to matters of detail only and this power can be exercised by the Board only with the previous approval of the Central Government.

The delegation of legislative powers is of a normal character,



## BILL No. 51 OF 1965

*A Bill further to amend the Aligarh Muslim University Act, 1920.*

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

**Short  
title.**

1. This Act may be called the Aligarh Muslim University (Amendment) Act, 1965.

**Amend-  
ment of  
section  
23.**

2. In section 23 of the Aligarh Muslim University Act, 1920 (here- 40 of 1920. 5  
inafter referred to as the principal Act),—

(a) in sub-section (1), the words and brackets “and the Pro-  
Vice-Chancellor (if any) for the time being,” shall be omitted;

(b) for sub-sections (2) and (3), the following sub-section  
shall be substituted, namely:—

“(2) The functions of the Court shall be—

(a) to advise the Visitor in respect of any matter which may be referred to the Court for advice;

5 (b) to advise any other authority of the University in respect of any matter, which may be referred to the Court for advice; and

(c) to perform such other duties and exercise such other powers as may be assigned to it by the Visitor or under this Act.”.

10 3. For sub-sections (2), (3), (4), (5) and (6) of section 28 of the principal Act, the following sub-section shall be substituted, namely:—

Amend-  
ment of  
section  
28.

15 “(2) The Executive Council may make new or additional Statutes or may amend or repeal the Statutes; but every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may sanction or disallow it or return it to the Executive Council for further consideration.”.

4. For sub-sections (4), (5), (6) and (7) of section 29 of the principal Act, the following sub-sections shall be substituted, namely:—

Amend-  
ment of  
section  
29.

20 “(4) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Visitor who may pass such order thereon as he thinks fit.

25 (5) Every Ordinance made by the Executive Council shall be submitted, as soon as may be, to the Visitor who may within two months from the date of receipt thereof disallow any such Ordinance or return it to the Executive Council for further consideration.

30 (6) The Visitor may, by order, direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance, and any order of suspension under this sub-section shall cease to have effect on the expiration of two months from the date of such order.”.

5. In section 31 of the principal Act, the proviso to sub-section (3) shall be omitted.

Amend-  
ment of  
section  
31.

Substitution of new section for section 34. Annual report.

6. For section 34 of the principal Act, the following section shall be substituted, namely:—

“34. The annual report of the University shall be prepared under the direction of the Executive Council and shall be submitted to the Visitor on or before such date as may be prescribed by the Statutes.”. 5

Amendment of section 35.

7. In section 35 of the principal Act, sub-section (3) shall be omitted.

Amendment of section 38.

8. In section 38 of the principal Act, in sub-section (2), the words beginning with “: provided that” and ending with “meeting of the Court” shall be omitted. 10

Amendment of Statutes.

9. Notwithstanding anything contained in the principal Act, the Statutes of the University shall be amended as follows:—

(i) in clause (2) of Statute 4, the word “ordinarily” shall be omitted; 15

(ii) in Statute 5,—

(a) for clauses (1), (2) and (3), the following clauses shall be substituted, namely:—

“(1) The Treasurer shall be appointed by the Executive Council and shall be a whole-time officer of the University. 20

(2) The terms and conditions of service of the Treasurer shall be such as may be prescribed by the Ordinances.”;

(b) in clause (5),— 25

(A) in sub-clause (a), the words “and the Court” shall be omitted;

(B) in sub-clause (d), for the word “convene”, the word “attend” shall be substituted;

(iii) in Statute 6, after clause (3), the following clause shall be inserted, namely:— 30

“(4) (a) The Registrar shall have power to take disciplinary action against the employees belonging to the ministerial staff and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment: 35

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

5 (b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing the penalty of the withholding of increment.

10 (c) In a case where the inquiry discloses that a punishment beyond the powers of the Registrar is called for, the Registrar shall, upon conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendations, for such action as the Vice-Chancellor deems fit.”;

(iv) for Statute 8, the following Statute shall be substituted, namely:—

15 “8. (1) The Court shall consist of the following members, The Court. namely:—

(a) the Chancellor, *ex officio*,

(b) the Pro-Chancellor, *ex officio*,

(c) the members of the Executive Council, *ex officio*,

20 (d) three persons, being Heads of Departments of Studies or Principals of Colleges of the University, nominated by the Visitor,

25 (e) two persons, being Professors from Departments of Studies or Colleges of the University, nominated by the Visitor,

(f) two persons from among teachers of the University other than Professors, nominated by the Visitor,

30 (g) three representatives of Parliament, two to be nominated by the Speaker of the House of the People from among the members thereof and one to be nominated by the Chairman of the Council of States from among the members thereof, and

35 (h) thirty persons nominated by the Visitor from among persons who are men of standing in public life or have special knowledge or practical experience in education or have rendered eminent services in the cause of education.

(2) All members of the Court, other than *ex officio* members, shall hold office for a term of three years.

(3) Seventeen members of the Court shall form a quorum.”;

(v) Statute 13 shall be omitted; 5

(vi) in Statute 14, in clause (1),—

(a) for the word “Court”, the words “Executive Council” shall be substituted;

(b) in sub-clause (a), the words “through the Executive Council” shall be omitted; 10

(c) in sub-clause (b), the words “on the recommendation of the Executive Council,” shall be omitted;

(vii) for Statute 15, the following Statute shall be substituted, namely:—

“15. (1) The Executive Council shall consist of the following members, namely:— 15

(a) the Vice-Chancellor, *ex officio*,

(b) seven persons nominated by the Visitor, and

(c) one person nominated by the Chief Rector in his discretion. 20

(2) All members of the Executive Council, other than *ex officio* members, shall hold office for a term of three years.

(3) Five members of the Executive Council shall form a quorum.”;

(viii) in Statute 16,— 25

(a) in clause (1), for the word “Court”, the word “Visitor” shall be substituted, and the words “not otherwise provided for” shall be omitted;

(b) in clause (2),—

(A) for sub-clause (ii), the following sub-clause shall be substituted, namely:— 30

“(ii) to appoint members of the administrative staff;”;

(B) after sub-clause (ii-A), the following sub-clause shall be inserted, namely:— 35

“(ii-B) to regulate and enforce discipline among members of the teaching, administrative and ministerial staff of the University in accordance with these Statutes and the Ordinances;”;

The Executive Council.

(C) in sub-clause (viii), the words “, otherwise than by an act of the Court” shall be omitted;

(D) in sub-clause (xii), the word “and” occurring at the end shall be omitted;

5 (E) after sub-clause (xii), the following sub-clause shall be inserted, namely:—

“(xii-A) to delegate any of its powers to the Vice-Chancellor, the Registrar or such other officer or authority of the University or to a Committee  
10 appointed by it as it may deem fit; and”;

(ix) in Statute 18,—

(a) in item (i), the words “the Court or” shall be omitted;

15 (b) in item (x), for the word “Court”, the words “Executive Council” shall be substituted;

(x) in Statute 19A,—

(a) in clause (1),—

(A) for item (iv), the following item shall be substituted, namely:—

20 “(iv) one person who is not an employee of the University, appointed by the Executive Council;”;

(B) item (v) shall be omitted;

(b) in clause (2), for the word “Three”, the word “Two” shall be substituted;

25 (c) in clause (4), the words “In the absence of the Vice-Chancellor, the Treasurer shall preside at a meeting thereof.” shall be omitted;

(xi) in Statute 25A,—

30 (a) in clause (2), for the words “contained in the terms of his appointment,” the words “to the contrary contained in the terms of his contract of service or of his appointment” shall be substituted and the proviso shall be omitted;

(b) after clause (2), the following clause shall be inserted, namely:—

“(3) (a) Notwithstanding anything contained in the terms of his contract of service or of his appointment, the Executive Council shall be entitled to dismiss 5 a teacher on grounds of misconduct, but save as aforesaid, the Executive Council shall not be entitled to determine the employment of a teacher save for good cause and after giving three months’ notice in writing or payment of three months’ salary in lieu of such notice. 10

(b) The determination of a teacher’s employment shall require a two-thirds majority of the members of the Executive Council present and voting.

(c) The Vice-Chancellor may suspend a teacher against whom any misconduct is alleged and shall report 15 the case to the next meeting of the Executive Council, but before any orders for dismissal are passed, the teacher shall be informed of the allegations made against him and shall be given a reasonable opportunity of making such representations to the Executive Council 20 or to any Committee thereof appointed for the purpose, as he may desire to make.

(d) Any dismissal on the ground of misconduct shall take effect on the date on which the teacher was 25 first suspended.

(e) Before a notice is given or payment is made to the teacher under sub-clause (a), he shall be informed by the Executive Council of the cause of the action proposed to be taken against him and shall be given a reasonable opportunity of making such representations to 30 the Executive Council or to any Committee thereof appointed for the purpose, as he may desire to make.

(f) Notwithstanding anything contained in the Statutes, the teacher may at any time terminate his employment by giving the Executive Council three 35 months’ notice in writing.”;

(xii) Statute 28 shall be omitted.

Transi- 10. (1) Every person holding office as a member of the Court or  
tional pro- the Executive Council, as the case may be, immediately before the  
visions. 20th day of May, 1965, shall on and from the said date cease to hold 40  
office as such:



Provided that where any such person held, immediately before such date, any other office in the University, nothing contained in this sub-section shall be construed to affect his continuance in such other office.

- 5 (2) Until the Court is constituted in accordance with the provisions of section 2, read with clause (iv) of section 9, or the Executive Council is constituted in accordance with the provisions of clause (vii) of section 9, the Visitor may, by general or special order, direct any officer of the University to exercise the powers and perform the duties conferred or imposed by or under the principal Act as amended by this Act on the Court or the Executive Council, as the case may be.

2 of 1965.

11. (1) The Aligarh Muslim University (Amendment) Ordinance, 1965 is hereby repealed. Repeal and saving.

- 15 (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 20th day of May, 1965.

## STATEMENT OF OBJECTS AND REASONS

On 25th April, 1965 grave disturbances took place in the Aligarh Muslim University Campus in which the University students caused injuries to some members of the Court which was then in session. The Vice-Chancellor who was made the principal target of concentrated attack sustained serious injuries, providentially escaping more dire consequences. The University was indefinitely closed.

Enquiries revealed that the disturbances were too well organised to be sporadic and seemed to flow from certain unhealthy influences which for some time had been adversely influencing the efficiency and the academic purposes of the University.

After carefully considering the various factors which culminated in the aforesaid disturbances involving violence and closure of the University, Government came to the conclusion that the University could not reopen and resume normal functioning without certain immediate measures being taken to change the administrative set up of the University. As Parliament was not in session at the time and the need for administrative reorganisation was imperative, the President promulgated the Aligarh Muslim University (Amendment) Ordinance, 1965 on the 20th May, 1965. The present Bill seeks to replace the Ordinance by an Act of Parliament.

The principal objects of the Bill in the immediate future are (i) to provide an administrative structure within which the University's return to normal functioning and pursuit of basic academic purposes may be facilitated and ensured, and (ii) further to ensure that, as an emergency measure and pending long term legislation about the University to be brought in the near future before Parliament by Government, it makes the transition from chaos to order both brief and smooth.

The main features of the Bill are:—

(a) the reconstitution of the Court of the University as an advisory body and reduction in the number of its membership;

(b) the reconstitution of the Executive Council;

(c) vesting of certain powers in the Vice-Chancellor and the Registrar in the matter of discipline.

NEW DELHI;

*The 9th August, 1965*

M. C. CHAGLA.

## BILL NO. 49 OF 1965

*A Bill to provide for the payment of bonus to persons employed in certain establishments and for matters connected therewith.*

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Payment of Bonus Act, 1965. Short title,  
extent and  
application.
- (2) It extends to the whole of India except the State of Jammu  
5 and Kashmir.
- (3) Save as otherwise provided in this Act, it shall apply to—
  - (a) every factory; and
  - (b) every other establishment in which twenty or more persons are employed on any day during an accounting year.
- 10 (4) Save as otherwise provided in this Act, the provisions of this Act shall, in relation to a factory or other establishment to which this Act applies, have effect in respect of the accounting year commencing on any day in the year 1964 and in respect of every subsequent accounting year.

(5) An establishment to which this Act applies under clause (b) of sub-section (3) shall continue to be governed by this Act notwithstanding that the number of persons employed therein falls below twenty.

Definitions.

2. In this Act, unless the context otherwise requires,—

(1) "accounting year" means—

(i) in relation to a corporation, the year ending on the day on which the books and accounts of the corporation are to be closed and balanced;

(ii) in relation to a company, the period in respect of which any profit and loss account of the company laid before it in annual general meeting is made up, whether that period is a year or not;

(iii) in any other case—

(a) the year commencing on the 1st day of April; or

(b) if the accounts of an establishment maintained by the employer thereof are closed and balanced on any day other than the 31st day of March, then, at the option of the employer, the year ending on the day on which its accounts are so closed and balanced:

Provided that an option once exercised by the employer under paragraph (b) of this sub-clause shall not again be exercised except with the previous permission in writing of the prescribed authority and upon such conditions as that authority may think fit;

(2) "agricultural income" shall have the same meaning as in the Income-tax Act;

(3) "agricultural income-tax law" means any law for the time being in force relating to the levy of tax on agricultural income;

(4) "allocable surplus" means—

(a) in relation to an employer, being a company (other than a banking company) which has not made the arrangements prescribed under the Income-tax Act for the declaration and payment within India of the dividends payable out of its profits in accordance with the provisions of section 194 of that Act, sixty-seven per cent. of the available surplus in an accounting year;

(b) in any other case, sixty per cent. of such available surplus,

and includes any amount treated as such under sub-section (2) of section 34;

(5) "appropriate Government" means—

14 of 1947.]

5

(i) in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947, is the Central Government, the Central Government;

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situate;

10

(6) "available surplus" means the available surplus computed under section 5;

14 of 1947.

15

(7) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947, or by any other authority constituted under any corresponding law relating to investigation and settlement of industrial disputes in force in a State and includes an arbitration award made under section 10A of that Act or under that law;

10 of 1949.

20

38 of 1959.

(8) "banking company" means a banking company as defined in section 5 of the Banking Companies Act, 1949, and includes the State Bank of India, any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, and any other banking institution which may be notified in this behalf by the Central Government;

1 of 1956.

25

(9) "company" means any company as defined in section 3 of the Companies Act, 1956, and includes a foreign company within the meaning of section 591 of that Act;

2 of 1912.

30

(10) "co-operative society" means a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or any other law for the time being in force in any State relating to co-operative societies;

(11) "corporation" means any body corporate established by or under any Central, Provincial or State Act but does not include a company or a co-operative society;

35

(12) "direct tax" means—

(a) any tax chargeable under—

14 of 1963.

7 of 1964.

40

(i) the Income-tax Act;

(ii) the Super Profits Tax Act, 1963;

(iii) the Companies (Profits) Surtax Act, 1964;

(iv) the agricultural income-tax law; and

(b) any other tax which, having regard to its nature or incidence, may be declared by the Central Government, by notification in the Official Gazette, to be a direct tax for the purposes of this Act;

(13) "employee" means any person (other than an apprentice) employed on a salary or wage not exceeding one thousand and six hundred rupees per mensem in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied; 5

(14) "employer" includes—

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948, the person so named; and 63 of 1948.

(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent; 15

(15) "establishment in private sector" means any establishment other than an establishment in public sector; 20

(16) "establishment in public sector" means an establishment owned, controlled or managed by—

(a) a Government company as defined in section 617 of the Companies Act, 1956; 1 of 1956.

(b) a corporation in which not less than forty per cent. of its capital is held (whether singly or taken together) by— 25

(i) the Government; or

(ii) the Reserve Bank of India; or

(iii) a corporation owned by the Government or the Reserve Bank of India; 30

(17) "factory" shall have the same meaning as in clause (m) of section 2 of the Factories Act, 1948; 63 of 1948.

(18) "gross profits" means the gross profits calculated under section 4;

(19) "Income-tax Act" means the Income-tax Act, 1961; 35 43 of 1951.

(20) "prescribed" means prescribed by rules made under this Act;

5 (21) "salary or wage" means all remuneration (other than remuneration in respect of over-time work) capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of work done in such employment and includes dearness allowance (that is to say, all cash payments, by whatever name called, paid to an employee on  
10 account of a rise in the cost of living), but does not include—

(i) any other allowance which the employee is for the time being entitled to;

15 (ii) the value of any house accommodation or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;

(iii) any travelling concession;

(iv) any bonus (including incentive, production and attendance bonus);

20 (v) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employee under any law for the time being in force;

(vi) any retrenchment compensation or any gratuity or other retirement benefit payable to the employee or any  
25 *ex gratia* payment made to him;

(vii) any commission payable to the employee.

30 *Explanation.*—Where an employee is given in lieu of the whole or part of the salary or wage payable to him, free food allowance or free food by his employer, such food allowance or the value of such food shall, for the purpose of this clause, be deemed to form part of the salary or wage of such employee;

23 of 1947. (22) words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947, shall have the meanings respectively assigned to them in that Act.

35 3. Where an establishment consists of different departments or undertakings or has branches, whether situated in the same place or in different places, all such departments or undertakings or branches shall be treated as parts of the same establishment for the purpose of computation of bonus under this Act: Establish-  
ments to include departments, undertakings and branches.

40 Provided that where for any accounting year a separate balance-sheet and profit and loss account are prepared and maintained in

respect of any such department or undertaking or branch, then, such department or undertaking or branch shall be treated as a separate establishment for the purpose of computation of bonus under this Act for that year, unless such department or undertaking or branch was, immediately before the commencement of that accounting year treated as part of the establishment for the purpose of computation of bonus.

Computation  
of gross  
profits.

4. The gross profits derived by an employer from an establishment in respect of any accounting year shall—

(a) in the case of a banking company, be calculated in the manner specified in the First Schedule;

(b) in any other case, be calculated in the manner specified in the Second Schedule.

Computation  
of available  
surplus.

5. The available surplus in respect of any accounting year shall be the gross profits for that year after deducting therefrom the sums referred to in section 6.

Sums  
deductible  
from gross  
profits.

6. The following sums shall be deducted from the gross profits as prior charges, namely:—

(a) any amount by way of depreciation admissible in accordance with the provisions of sub-section (1) of section 32 of the Income-tax Act, or in accordance with the provisions of the agricultural income-tax law, as the case may be;

Provided that where an employer has been paying bonus to his employees under a settlement or an award or agreement made before the 29th May, 1965, and subsisting on that date after deducting from the gross profits notional normal depreciation, then, the amount of depreciation to be deducted under this clause shall, at the option of such employer (such option to be exercised once and within one year from that date) continue to be such notional normal depreciation;

(b) any amount by way of development rebate or development allowance which the employer is entitled to deduct from his income under the Income-tax Act;

(c) subject to the provisions of section 7, any direct tax which the employer is liable to pay for the accounting year in respect of his income, profits and gains during that year;



(d) such further sums as are specified in respect of the employer in the Third Schedule.

7. For the purpose of clause (c) of section 6, any direct tax payable by the employer for any accounting year shall, subject to the following provisions, be calculated at the rates applicable to the income of the employer for that year, namely:—

(a) in calculating such tax no account shall be taken of—

(i) any loss incurred by the employer in respect of any previous accounting year and carried forward under any law for the time being in force relating to direct taxes;

(ii) any arrears of depreciation which the employer is entitled to add to the amount of the allowance for depreciation for any following accounting year or years under sub-section (2) of section 32 of the Income-tax Act;

(iii) any exemption conferred on the employer under section 84 of the Income-tax Act or of any deduction to which he is entitled under sub-section (1) of section 101 of that Act, as in force immediately before the commencement of the Finance Act, 1965;

(b) where the employer is a religious or a charitable institution to which the provisions of section 32 do not apply and the whole or any part of its income is exempt from tax under the Income-tax Act, then, with respect to the income so exempted, such institution shall be treated as if it were a company in which the public are substantially interested within the meaning of that Act;

(c) where the employer is an individual or a Hindu undivided family, the tax payable by such employer under the Income-tax Act shall be calculated on the basis that the income derived by him from the establishment is his only income;

(d) where the income of any employer includes any profits and gains derived from the export of any goods or merchandise out of India and any rebate on such income is allowed under any law for the time being in force relating to direct taxes, then, no account shall be taken of such rebate;

(e) no account shall be taken of any rebate (other than development rebate or development allowance) or credit or relief or deduction (not hereinbefore mentioned in this section) in the payment of any direct tax allowed under any law for the time

being in force relating to direct taxes or under the relevant annual Finance Act, for the development of any industry.

Eligibility  
for bonus.

8. Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less 5 than thirty working days in that year.

Disqualifica-  
tion for  
bonus.

9. Notwithstanding anything contained in this Act, an employee shall be disqualified from receiving bonus under this Act, if he is dismissed from service for—

(a) fraud; or

10

(b) riotous or violent behaviour while on the premises of the establishment; or

(c) theft, misappropriation or sabotage of any property of the establishment.

Payment of  
minimum  
bonus.

10. Every employer shall be bound to pay to every employee who 15 has worked in the establishment for all the working days in an accounting year a minimum bonus which shall be four per cent. of the salary or wage of the employee for the accounting year or forty rupees, whichever is higher, whether there are profits in the account- 20 ing year or not:

Provided that where such employee has not completed fifteen years of age at the beginning of the accounting year, the provisions of this section shall have effect in relation to such employee as if for the words "forty rupees", the words "twenty-five rupees" were substituted.

Payment of  
maximum  
bonus.

11. (1) Where in respect of any accounting year the allocable 25 surplus exceeds the amount of minimum bonus payable to the employees under section 10, the employer shall, in lieu of such minimum bonus, be bound to pay to every employee who has worked in the establishment for all the working days in the accounting year bonus which shall be an amount in proportion to the salary or 30 wage of the employee for the accounting year subject to a maximum of twenty per cent. of such salary or wage.

(2) In computing the allocable surplus under this section, the amount set on or the amount set off under the provisions of section 15 shall be taken into account in accordance with the provisions of that 35 section.

12. Where the salary or wage of an employee exceeds seven hundred and fifty rupees per mensem, the bonus payable to such employee under section 10 or, as the case may be, under section 11, shall be calculated as if his salary or wage were seven hundred and fifty 5 rupees per mensem.

Calculation of bonus with respect to certain employees.

13. Where an employee has not worked for all the working days in any accounting year, the amount of bonus to which he shall be entitled under section 10 or, as the case may be, under section 11, shall be proportionately reduced.

Proportionate reduction of bonus in certain cases.

10 14. In computing for the purposes of sections 10, 11 and 13 the number of days on which an employee has worked in an establishment in any accounting year, the days on which—

Computation of number of working days.

20 of 1946.  
14 of 1947.

15 (a) he has been laid off under an agreement or as permitted by standing orders under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment;

(b) he has been on leave with salary or wage;

(c) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment;

20 and

(d) the employee has been on maternity leave with salary or wage,

during the accounting year shall be included.

25 15. (1) Where for any accounting year the allocable surplus exceeds the amount of maximum bonus payable to the employees in the establishment under section 11, then, the excess shall, subject to a limit of twenty per cent. of the total salary or wage of the employees employed in the establishment in that accounting year, be carried forward for being set on in the succeeding accounting year and so 30 on up to and inclusive of the fourth accounting year to be utilised for the purpose of payment of bonus in the manner illustrated in the Fourth Schedule.

Set on and set off of allocable surplus.

35 (2) Where for any accounting year, there is no available surplus or the allocable surplus in respect of that year falls short of the amount of minimum bonus payable to the employees in the establishment under section 10, and there is no amount or sufficient amount carried forward and set on under sub-section (1) which could be utilised for the purpose of payment of the minimum bonus, then, such minimum amount or the deficiency, as the case may be, shall be 40 carried forward for being set off in the succeeding accounting year and

so on up to and inclusive of the fourth accounting year in the manner illustrated in the Fourth Schedule.

(3) The principle of set on and set off as illustrated in the Fourth Schedule shall apply to all other cases not covered by sub-section (1) or sub-section (2) for the purpose of payment of bonus under this Act.

(4) Where in any accounting year any amount has been carried forward and set on or set off under this section, then, in calculating bonus for the succeeding accounting year, the amount of set on or set off carried forward from the earliest accounting year shall first be taken into account.

Special provisions with respect to certain establishments.

16. (1) Where an establishment is newly set up, whether before or after the commencement of this Act, the employees of such establishment shall be entitled to be paid bonus under this Act only—

(a) from the accounting year in which the employer derives profit from such establishment; or

(b) from the sixth accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment,

whichever is earlier:

Provided that in the case of any such establishment the employees thereof shall not, save as otherwise provided in section 33, be entitled to be paid bonus under this Act in respect of any accounting year prior to the accounting year commencing on any day in the year 1964.

*Explanation I.*—For the purpose of this section, an establishment shall not be deemed to be newly set up merely by reason of a change in its location, management, name or ownership.

*Explanation II.*—For the purpose of clause (a), an employer shall not be deemed to have derived profit in any accounting year unless—

(a) he has made provision for that year's depreciation to which he is entitled under the Income-tax Act or, as the case may be, under the agricultural income-tax law; and

(b) the arrears of such depreciation and losses incurred by him in respect of the establishment for the previous accounting years have been fully set off against his profits.

*Explanation III.*—For the purpose of clause (b), sale of the goods produced or manufactured during the course of the trial run of any

factory or of the prospecting stage of any mine or an oil-field shall not be taken into consideration and where any question arises with regard to such production or manufacture, the decision of the appropriate Government, made after giving the parties a reasonable opportunity of representing the case, shall be final and shall not be called in question by any court or other authority.

(2) The provisions of sub-section (1) shall, so far as may be, apply to new departments or undertakings or branches set up by existing establishments:

10 Provided that if an employer in relation to an existing establishment consisting of different departments or undertakings or branches (whether or not in the same industry) set up at different periods has, before the 29th May, 1965, been paying bonus to the employees of all such departments or undertakings or branches irrespective  
15 of the date on which such departments or undertakings or branches were set up, on the basis of the consolidated profits computed in respect of all such departments or undertakings or branches, then, such employer shall be liable to pay bonus in accordance with the provisions of this Act to the employees of all such departments or  
20 undertakings or branches (whether set up before or after that date) on the basis of the consolidated profits computed as aforesaid.

17. Where in any accounting year—

- (a) an employer has paid any puja bonus or other customary  
25 bonus to an employee; or
- (b) an employer has paid a part of the bonus payable under this Act to an employee before the date on which such bonus becomes payable,

Adjustment  
of customary  
or interim  
bonus  
against  
bonus payable  
under  
the Act.

then, the employer shall be entitled to deduct the amount of bonus  
30 so paid from the amount of bonus payable by him to the employee under this Act in respect of that accounting year and the employee shall be entitled to receive only the balance.

18. Where in any accounting year, an employee is found guilty of misconduct causing financial loss to the employer, then, it shall be  
35 lawful for the employer to deduct the amount of loss from the amount of bonus payable by him to the employee under this Act in respect of that accounting year only and the employee shall be entitled to receive the balance, if any.

Deduction  
of certain  
amounts  
from bonus  
payable  
under the  
Act.

Time-limit  
for payment  
of bonus.

19. All amounts payable to an employee by way of bonus under this Act shall be paid in cash by his employer—

(a) where there is a dispute regarding payment of bonus pending before any authority under section 22, within a month of the settlement or award in respect of such dispute; 5

(b) in any other case, within a period of eight months from the close of the accounting year:

Provided that the appropriate Government or such authority as the appropriate Government may specify in this behalf may, upon an application made to it by the employer and for sufficient reasons, 10 by order, extend the said period of eight months to such further period or periods as it thinks fit; so, however, that the total period so extended shall not in any case exceed two years.

Application  
of Act  
to establish-  
ments in  
public sec-  
tor in  
certain  
cases.

20. (1) If in any accounting year an establishment in public sector sells any goods produced or manufactured by it or renders any 15 services, in competition with an establishment in private sector, and the income from such sale or services or both is not less than twenty per cent. of the gross income of the establishment in public sector for that year, then, the provisions of this Act shall apply in relation to such establishment in public sector as they apply in relation to a 20 like establishment in private sector.

(2) An establishment in public sector to which this Act applies shall continue to be governed by this Act notwithstanding that in any subsequent accounting year its income from the sale of goods produced or manufactured by it or from services ren- 25 dered or from both, in competition with an establishment in private sector, falls below twenty per cent. of its gross income for that accounting year.

Recovery of  
bonus due  
from an  
employer.

21. Where any money is due to an employee by way of bonus from his employer under a settlement or an award or agreement, the 30 employee himself or any other person authorised by him in writing in this behalf, or in the case of the death of the employee, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate 35 Government or such authority as the appropriate Government may specify in this behalf is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue; 40

Provided that every such application shall be made within one year from the date on which the money became due to the employee from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

*Explanation.*—In this section and in sections 22, 23, 24 and 25, “employee” includes a person who is entitled to the payment of bonus under this Act but who is no longer in employment.

22. Where any dispute arises between an employer and his employees with respect to the bonus payable under this Act or with respect to the application of this Act to an establishment in public sector, then, such dispute shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947, or of any corresponding law relating to investigation and settlement of industrial disputes in force in a State and the provisions of that Act or, as the case may be, such law, shall, save as otherwise expressly provided, apply accordingly.

Reference of disputes under the Act.

23. (1) Where, during the course of proceedings before any arbitrator or Tribunal under the Industrial Disputes Act, 1947, or under any corresponding law relating to investigation and settlement of industrial disputes in force in a State (hereinafter in this section and in sections 24 and 25 referred to as the “said authority”) to which any dispute of the nature specified in section 22 has been referred, the balance-sheet and the profit and loss account of an employer, being a corporation or a company (other than a banking company), duly audited by the Comptroller and Auditor-General of India or by auditors duly qualified to act as auditors of companies under sub-section (1) of section 226 of the Companies Act, 1956, are produced before it, then, the said authority may presume the statements and particulars contained in such balance-sheet and profit and loss account to be accurate and it shall not be necessary for the corporation or the company to prove the accuracy of such statements and particulars by the filing of an affidavit or by any other mode:

Presumption about accuracy of balance-sheet and profit and loss account of corporations and companies.

Provided that where the said authority is satisfied that the statements and particulars contained in the balance-sheet or the profit and loss account of the corporation or the company are not accurate, it may take such steps as it thinks necessary to find out the accuracy of such statements and particulars.



(2) When an application is made to the said authority by any trade union being a party to the dispute or where there is no trade union, by the employees being a party to the dispute, requiring any clarification relating to any item in the balance-sheet or the profit and loss account, it may, after satisfying 5 itself that such clarification is necessary, by order, direct the corporation or, as the case may be, the company, to furnish to the trade union or the employees such clarification within such time as may be specified in the direction and the corporation or, as the case may be, the company, shall comply with such direction. 10

Audited  
accounts of  
banking  
companies  
not to be  
questioned.

24. (1) Where any dispute of the nature specified in section 22 between an employer, being a banking company, and its employees has been referred to the said authority under that section and during the course of proceedings the accounts of the banking company duly audited are produced before it, the said authority 15 shall not permit any trade union or employees to question the correctness of such accounts, but the trade union or the employees may be permitted to obtain from the banking company such information as is necessary for verifying the amount of bonus due under this Act. 20

(2) Nothing contained in sub-section (1) shall enable the trade union or the employees to obtain any information which the banking company is not compelled to furnish under the provisions of section 34A of the Banking Companies Act, 1949. 10 of 1949.

Audit of  
accounts of  
employers,  
not being  
corporations  
or companies.

25. (1) Where any dispute of the nature specified in 25 section 22 between an employer, not being a corporation or a company, and his employees has been referred to the said authority under that section and the accounts of such employer audited by any auditor duly qualified to act as auditor of companies under sub-section (1) of section 226 of the Companies Act, 1956, are produced before the 30 said authority, the provisions of section 23, shall, so far as may be, apply to the accounts so audited. 1 of 1956.

(2) When the said authority finds that the accounts of such employer have not been audited by any such auditor and it is of opinion that an audit of the accounts of such employer is necessary 35 for deciding the question referred to it, then, it may, by order, direct the employer to get his accounts audited within such time as may be specified in the direction or within such further time as it may allow by such auditor or auditors as it thinks fit and thereupon the employer shall comply with such direction. 40



(3) Where an employer fails to get the accounts audited under sub-section (2) the said authority may, without prejudice to the provisions of section 28, get the accounts audited by such auditor or auditors as it thinks fit.

5 (4) When the accounts are audited under sub-section (2) or sub-section (3) the provisions of section 23 shall, so far as may be, apply to the accounts so audited.

(5) The expenses of, and incidental to, any audit under sub-section (3) (including the remuneration of the auditor or auditors) shall be  
10 determined by the said authority (which determination shall be final) and paid by the employer and in default of such payment shall be recoverable from the employer in the manner provided in section 21.

26. Every employer shall prepare and maintain such registers, records and other documents in such form and in such manner as  
15 may be prescribed. Maintenance of registers, records, etc.

**27. (1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act and may define the limits within which they shall exercise jurisdiction.** Inspectors.

20 (2) An Inspector appointed under sub-section (1) may, for the purpose of ascertaining whether any of the provisions of this Act has been complied with—

(a) require an employer to furnish such information as he may consider necessary;

25 (b) at any reasonable time and with such assistance, if any, as he thinks fit, enter any establishment or any premises connected therewith and require any one found in charge thereof to produce before him for examination any  
30 accounts, books, registers and other documents relating to the employment of persons or the payment of salary or wage or bonus in the establishment;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the establishment or any premises  
35 connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been an employee in the establishment;

(d) make copies of, or take extracts from, any book, register or other document maintained in relation to the establishment;

40 (e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

45 of 1860.

(4) Any person required to produce any accounts, book, register or other document or to give information by an Inspector under sub-section (1) shall be legally bound to do so.

5

(5) Nothing contained in this section shall enable an Inspector to require a banking company to furnish or disclose any statement or information or to produce, or give inspection of, any of its books of account or other documents, which a banking company cannot be compelled to furnish, disclose, produce or give inspection of, under the provisions of section 34A of the Banking Companies Act, 1949.

10

10 of 1949.

**Penalty.**

28. If any person—

(a) contravenes any of the provisions of this Act or any rule made thereunder; or

(b) to whom a direction is given or a requisition is made under this Act fails to comply with the direction or requisition,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

20

**Offences by companies.**

29. (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

25

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

30

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

35

*Explanation.*—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the  
5 firm.

30. (1) No court shall take cognizance of any offence punishable under this Act, save on complaint made by or under the authority of the appropriate Government. Cognizance of offences.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

31. No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder. Protection of action taken under the Act.

32. Nothing in this Act shall apply to—

(i) employees employed by any insurer carrying on general insurance business and the employees employed by the Life Insurance Corporation of India; Act not to apply to certain classes of employees.

44 of 1958. 20 (ii) seamen as defined in clause (42) of section 3 of the Merchant Shipping Act, 1958;

9 of 1948. (iii) employees registered or listed under any scheme made under the Dock Workers (Regulation of Employment) Act, 1948, and employed by registered or listed employers;

25 (iv) employees employed by an establishment engaged in any industry carried on by or under the authority of any department of the Central Government or a State Government or a local authority;

(v) employees employed by—

30 (a) the Indian Red Cross Society or any other institution of a like nature (including its branches);

(b) universities and other educational institutions;

(c) institutions (including hospitals, chambers of commerce and social welfare institutions) established not for purposes of profit; 35

(vi) employees employed through contractors on building operations;

(vii) employees—

(a) who have entered before the 29th May, 1965, into any agreement or settlement with their employers for payment of an annual bonus linked with production or productivity in lieu of bonus based on profits; or 5

(b) who have entered or may enter after that date into any agreement or settlement with their employers for payment of such annual bonus in lieu of the bonus payable under this Act,

for the period for which such agreement or settlement is in 10 operation;

(viii) employees employed by the Reserve Bank of India;

(ix) employees employed by—

(1) the Industrial Finance Corporation of India;

(b) any Financial Corporation established under section 15 3, or any Joint Financial Corporation established under section 3A, of the State Financial Corporations Act, 1951, 63 of 1951.

(c) the Deposit Insurance Corporation;

(d) the Agricultural Refinance Corporation,

(e) the Unit Trust of India; and 20

(f) the Industrial Development Bank of India;

(x) employees employed by any establishment in public sector, save as otherwise provided in this Act.

Act to  
apply to  
certain  
pending  
disputes  
regarding  
payment of  
bonus.

33. Where, immediately before the 2nd September, 1964, any industrial dispute regarding payment of bonus relating to any 25 accounting year, not being an accounting year earlier than the accounting year ending on any day in the year 1962, was pending before the appropriate Government or before any Tribunal or other authority under the Industrial Disputes Act, 1947, or under any corresponding law relating to investigation and settlement of industrial 30 disputes in a State, then, the bonus shall be payable in accordance with the provisions of this Act in relation to the accounting year to which the dispute relates and any subsequent accounting year, notwithstanding that in respect of that subsequent accounting year no such dispute was pending. 35

14 of 1947.

*Explanation.*—A dispute shall be deemed to be pending before the appropriate Government where no decision of that Government on any application made to it under the said Act or such corresponding law for reference of that dispute to adjudication has been made or where having received the report of the Conciliation Officer (by 40 whatever designation known) under the said Act or law, the appro-

priate Government has not passed any order refusing to make such reference.

34. (1) Save as otherwise provided in this section, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement, settlement or contract of service made before the 29th May, 1965.

Effect of laws and agreements in consistent with the Act.

(2) If in respect of any accounting year the total bonus payable to all the employees in any establishment under this Act is less than the total bonus paid or payable to all the employees in that establishment in respect of the base year under any award, agreement, settlement or contract of service, then, the employees in the establishment shall be paid bonus in respect of that accounting year as if the allocable surplus for that accounting year were an amount which bears the same ratio to the gross profits of the said accounting year as the total bonus paid or payable in respect of the base year bears to the gross profits of the base year:

Provided that nothing contained in this sub-section shall entitle any employee to be paid bonus exceeding twenty per cent. of his salary or wage for the accounting year:

Provided further that if in any accounting year the allocable surplus computed as aforesaid exceeds the amount of maximum bonus payable to the employees in the establishment under the first proviso, then, the provisions of section 15 shall, so far as may be, apply to such excess.

*Explanation I.*—For the purpose of this sub-section, the total bonus in respect of any accounting year shall be deemed to be less than the total bonus paid or payable in respect of the base year if the ratio of bonus payable in respect of the accounting year to the gross profits of that year is less than the ratio of bonus paid or payable in respect of the base year to the gross profits of that year.

*Explanation II.*—In this sub-section,—

(a) “base year” means—

(i) in a case where immediately before the 2nd September, 1964, any dispute of the nature specified in section 33 was pending before the appropriate Government or before any Tribunal or other authority under the Industrial Disputes Act, 1947, or under any corresponding law relating to investigation and settlement of industrial disputes in a State, the accounting year immediately preceding the accounting year to which the dispute relates;

14 of 1947-

(ii) in any other case, the period of twelve months immediately preceding the accounting year in which this Act becomes applicable to the establishment;

(b) "gross profits" in relation to the base year or, as the case may be, to the accounting year, means gross profits as reduced 5 by the direct taxes payable by the employer in respect of that year.

(3) Nothing contained in this Act shall be construed to preclude employees employed in any establishment or class of establishments from entering into agreement with their employer for 10 granting them an amount of bonus under a formula which is different from that under this Act.

**Saving.**

35. Nothing contained in this Act shall be deemed to affect the provisions of the Coal Mines Provident Fund and Bonus Schemes Act, 1948, or of any scheme made thereunder.

15 46 of 1948.

**Power of exemption.**

36. If the appropriate Government, having regard to the financial position and other relevant circumstances of any establishment or class of establishments, is of opinion that it will not be in public interest to apply all or any of the provisions of this Act thereto, it may, by notification in the Official Gazette, exempt for such period 20 as may be specified therein and subject to such conditions as it may think fit to impose, such establishment or class of establishments from all or any of the provisions of this Act.

**Power to remove difficulties**

37. If any difficulty or doubt arises in giving effect to the provisions of this Act, the Central Government may, by order published 25 in the Official Gazette, make such provision, not inconsistent with the purposes of this Act as appears to it to be necessary or expedient for the removal of the difficulty or doubt; and the order of the Central Government, in such cases, shall be final.

**Power to make rules**

38. (1) The Central Government may make rules for the purpose 30 of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the authority for granting permission under the proviso to sub-clause (iii) of clause (1) of section 2;

5 (b) the preparation of registers, records and other documents and the form and manner in which such registers, records and documents may be maintained under section 26;

(c) the powers which may be exercised by an Inspector under clause (e) of sub-section (2) of section 27;

10 (d) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if before the expiry  
15 of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annul-  
20 ment shall be without prejudice to the validity of anything previously done under that rule.

14 of 1947. 39. Save as otherwise expressly provided, the provisions of this Act shall be in addition to and not in derogation of the Industrial Disputes Act, 1947, or any corresponding law relating to inves-  
25 tigation and settlement of industrial disputes in force in a State.

Application of certain laws not barred.

3 of 1965. 40. (1) The payment of Bonus Ordinance, 1965, is hereby repealed.  
ed.

Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been  
30 done or taken under this Act as if this Act had commenced on the 29th May, 1965.

## THE FIRST SCHEDULE

[See section 4 (a)]

## COMPUTATION OF GROSS PROFITS

Accounting Year ending.....

Item No.	Particulars	Amount of sub-items	Amount of main Items	Remarks
		Rs.	Rs.	
*1.	<i>Net Profit</i> as shown in the Profit and Loss Account after making usual and necessary provisions.			10
2.	<i>Add back</i> provision for :			
	(a) Bonus.			
	(b) Depreciation.			15
	(c) Development Rebate Reserve.			See foot-note (1)
	(d) Any other reserves.			See foot-note (1)
Total of Item No. 2		Rs.		
3.	<i>Add back</i> also :			20
	(a) Bonus paid in respect of previous accounting years.			See foot-note (1)
	(b) Donations in excess of the amount admissible for income-tax.			25

\*Where the profit subject to taxation is shown in the Profit and Loss Account and the provision made for taxes on income is shown, the actual provision for taxes on income shall be deducted from the profit.



Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
		Rs.	Rs.	
5	(c) Capital expenditure (other than capital expenditure on scientific research which is allowed as a deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale of capital assets on which depreciation has been allowed for income-tax).			See foot-note ( )
10				
15				
20	(d) Any amount certified by the Reserve Bank of India in terms of sub-section (2) of section 34A of the Banking Companies Act, 1949.			
25				
	(e) Losses of, or expenditure relating to, any business situated outside India.			
30	Total of Item No. 3	Rs.		
35	4. Add also Income, profits or gains (if any) credited directly to published or disclosed reserves, other than—			
	(i) capital receipts and capital profits (including profits on the sale of capital			

Item No.	Particulars	Amount of sub-items	Amount of main Items	Remarks
		Rs.	Rs.	
	assets on which depreciation has not been allowed for income-tax) ;			5
	(ii) profits of, and receipts relating to, any business situated outside India ;			10
	(iii) income of foreign banking companies from investments outside India.			15
	Net total of Item No. 4	Rs.		
5.	Total of Item Nos. 1, 2, 3 and 4.		Rs.	
6.	<i>Deduct :</i>			
	(a) Capital receipts and capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax).			See foot-note (2) 20 25
	(b) Profits of, and receipts relating to, any business situated outside India.			See foot-note (2) 30
	(c) Income of foreign banking companies from investments outside India.			See foot-note (2)
	(d) Expenditure or losses (if any) debited directly to published or disclosed reserves, other than—			35
	(i) capital expenditure and capital losses (other			40

Item No.	Particulars	Amount of sub-items	Amount of main Items	Remarks
		Rs.	Rs.	
5	than losses on sale of capital assets on which depre- ciation has not been allowed for income-tax) ;			
10	(ii) losses of any business situated outside India.			
15	(e) In the case of foreign banking com- panies proportionate administrative (over- head) expenses of Head Office alloca- ble to Indian busi- ness.			<i>See foot-note (3)</i>
20	(f) Refund of any excess direct tax paid for previous accounting years and excess pro- vision, if any, of previous accounting years, relating to bonus, depreciation, or development re- bate, if written back.			<i>See foot-note (2)</i>
25				
30	(g) Subsidy, if any, re- ceived from Govern- ment or from any body corporate es- tablished by any law for the time being in force.			<i>See foot-note (2)</i>
35				
	Total of Item No. 6	Rs.		
40	7. Gross Profits for purposes of bonus (Item No. 5 minus Item No. 6).		Rs.	

**Foot-notes—**

- (1) If, and to the extent, charged to Profit and Loss Account.
- (2) If, and to the extent, credited to Profit and Loss Account.
- (3) In the proportion of Indian Gross Profit (Item No. 7) to Total World Gross Profit (as per consolidated Profit and Loss Account, adjusted as in Item No. 2 above only).

## THE SECOND SCHEDULE

[See section 4 (b)]

## COMPUTATION OF GROSS PROFITS

Accounting Year ending.....

Item No.	Particulars	Amount of sub-items	Amount of main Items	Remarks	5
		Rs.	Rs.		
1.	<i>Net Profit</i> as per Profit and Loss Account.				
2.	<i>Add back</i> provision for :				
	(a) Bonus.				10
	(b) Depreciation.				
	(c) Direct taxes, including the provision (if any) for previous accounting years.				15
	(d) Development rebate/ Development allowance reserve.			See foot-note (1)	
	(e) Any other reserves.			See foot-note (1)	20
	Total of Item No. 2	Rs.			
3.	<i>Add back</i> also :				
	(a) Bonus paid in respect of previous accounting years.			See foot-note (1)	25
	(b) Donations in excess of the amount admissible for income-tax.				
	(c) Any annuity due, or commuted value of any annuity paid, under the provisions of section 280D of the Income-tax Act during the accounting year.				30
					35

Item No.	Particulars	Amount of sub-items	Amount of main Items	Remarks
		Rs.	Rs.	
5	(d) Capital expenditure (other than capital expenditure on scientific research which is allowed as a deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale of capital assets on which depreciation has been allowed for income-tax or agricultural income-tax).			See foot-note (1)
10				
15				
20	(e) Losses of, or expenditure relating to, any business situated outside India.			
	Total of Item No. 3	Rs.		
25	4. Add also Income, profits or gains (if any) credited directly to reserves, other than—			
30	(i) capital receipts and capital profits (including profits on the sale of capital assets on which depreciation has not been allowed for income-tax or agricultural income-tax);			
35				
40	(ii) profits of, and receipts relating to, any business situated outside India;			

Item No.	Particulars	Amount of sub-items	Amount of main Items	Remarks
		Rs.	Rs.	
	(iii) income of foreign concerns from investments outside India.			5
	Net total of Item No. 4	Rs.		
5.	Total of Item Nos. 1, 2, 3 and 4.		Rs.	10
6.	<i>Deduct :</i>			
	(a) Capital receipts and capital profits (other than profits on the sale of assets on which depreciation has been allowed for income-tax or agricultural income-tax).			See foot-note (2) 15
	(b) Profits of, and receipts relating to, any business situated outside India.			See foot-note (2) 20
	(c) Income of foreign concerns from investments outside India.			See foot-note (2) 25
	(d) Expenditure or losses (if any) debited directly to reserves, other than—			30
	(i) capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for			35

Item No.	Particulars	Amount of sub-items	Amount of main items	Remarks
		Rs.	Rs.	
5	income-tax or agricultural income-tax) ;			
	(ii) losses of any business situated outside India.			
10	(e) In the case of foreign concerns proportionate administrative (overhead) expenses of Head Office allocable to Indian business.			See foot-note (3)
15	(f) Refund of any direct tax paid for previous accounting years and excess provision, if any, of previous accounting years relating to bonus, depreciation, taxation or development rebate or development allowance, if written back.			See foot-note (2)
20				
25				
30	(g) Subsidy, if any, received from Government or from any body corporate established by any law for the time being in force.			
35				
	Total of Item No. 6 .	Rs.		
7.	Gross Profits for purposes of bonus (Item No. 5 minus Item No. 6).		Rs.	

*Foot-notes—*

(1) If, and to the extent, charged to Profit and Loss Account.

(2) If, and to the extent, credited to Profit and Loss Account.

(3) In the proportion of Indian Gross Profit (Item No. 7) to Total World Gross Profit (as per Consolidated Profit and Loss Account, adjusted as in Item No. 2 above only).

## THE THIRD SCHEDULE

[See section 6 (d)]

Item No.	Category of employer	Further sums to be deducted	
(1)	(2)	(3)	5
1.	Company, other than a banking company.	<p>(i) The dividends payable on its preference share capital for the accounting year calculated at the actual rate at which such dividends are payable ; 10</p> <p>(ii) 8.5 per cent. of its paid up equity share capital as at the commencement of the accounting year ;</p> <p>(iii) 6 per cent. of its reserves shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year : 15</p> <p>Provided that where the employer is a foreign company within the meaning of section 591 of the Companies Act, 1956, the total amount to be deducted under this Item shall be 8.5 per cent. on the aggregate of the value of the net fixed assets and the current assets of the company in India after deducting the amount of its current liabilities (other than any amount shown as payable by the company to its Head Office whether towards any advance made by the Head Office or otherwise or any interest paid by the company to its Head Office) in India. 20 25 30 35 1 of 1956.</p>	
2.	Banking company	<p>(i) The dividends payable on its preference share capital for the accounting year calculated at the rate at which such dividends are payable ; 40</p> <p>(ii) 7.5 per cent. of its paid up equity share capital as at the commencement of the accounting year ; 45</p>	



Item No.	Category of employer	Further sums to be deducted
(1)	(2)	(3)
5		(iii) 5 per cent. of its reserves shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year ;
10		(iv) any sum which, in respect of the accounting year, is transferred by it—
15		(a) to a reserve fund under sub-section (1) of section 17 of the Banking Companies Act, 1949 ; or
10 of 1949.		(b) to any reserves in India in pursuance of any direction or advice given by the Reserve Bank of India,
20		whichever is higher :
		Provided that where the banking company is a foreign company within the meaning of section 591 of the Companies Act, 1956, the amount to be deducted under this Item shall be the aggregate of—
25	1 of 1956.	(i) the dividends payable to its preference shareholders for the accounting year at the rate at which such dividends are payable on such amount as bears the same proportion to its total preference share capital as its total working funds in India bear to its total world working funds ;
30		(ii) 7.5 per cent. of such amount as bears the same proportion to its total paid up equity share capital as its total working funds in India bear to its total world working funds ;
35		(iii) 5 per cent. of such amount as bears the same proportion to its total disclosed reserves as its total working funds in India bear to its total world working funds ;
40		
45		

Item No.	Category of employer	Further sums to be deducted
(1)	(2)	(3)
		(iv) any sum which, in respect of the accounting year, is deposited by it with the Reserve Bank of India under sub-clause (ii) of clause (b) of sub-section (2) of section 11 of the Banking Companies Act, 1949, not exceeding the amount required under the aforesaid provision to be so deposited. 5 10 of 1949. 10
3.	Corporation	(i) 8.5 per cent. of its paid up capital as at the commencement of the accounting year ; 15 (ii) 6 per cent. of its reserves, if any, shown in its balance-sheet as at the commencement of the accounting year, including any profits carried forward from the previous accounting year. 20
4.	Co-operative society	(i) 8.5 per cent. of the capital invested by such society in its establishment as evidenced from its books of accounts at the commencement of the accounting year ; 25 (ii) such sum as has been carried forward in respect of the accounting year to a reserve fund under any law relating to co-operative societies for the time being in force. 30
5.	Any other employer not falling under any of the aforesaid categories.	8.5 per cent. of the capital invested by him in his establishment as evidenced from his books of accounts at the commencement of the accounting year ; 35

Provided that where such employer is a person to whom Chapter XXIIA of the Income-tax Act applies, the annuity deposit payable by him under the provisions of that Chapter during the accounting year shall also be deducted : 40

Item No.	Category of employer	Further sums to be deducted
(1)	(2)	(3)
5		Provided further that where such employer is a firm, an amount equal to 25 per cent. of the gross profits derived by it from the establishment in respect of the accounting year after deducting depreciation in accordance with the provisions of clause (a) of section 6 by way of remuneration to all the partners taking part in the conduct of business of the establishment shall also be deducted, but where the partnership agreement, whether oral or written, provides for the payment of remuneration to any such partner, and—
10		
15		
20		(i) the total remuneration payable to all such partners is less than the said 25 per cent., the amount payable, subject to a maximum of forty-eight thousand rupees to each such partner ; or
25		(ii) the total remuneration payable to all such partners is higher than the said 25 per cent., such percentage, or a sum calculated at the rate of forty-eight thousand rupees to each such partner, whichever is less,
30		shall be deducted under this proviso :
35		Provided also that where such employer is an individual or a Hindu undivided family,—
40		(i) an amount equal to 25 per cent. of the gross profits derived by such employer from the establishment in respect of the accounting year after deducting depreciation in accordance with the provisions of clause (a) of section 5 ; or
45		(ii) forty-eight thousand rupees, whichever is less, by way of remuneration to such employer, shall also be deducted.

Item No.	Category of employer	Further sums to be deducted
(1)	(2)	(3)
6.	Any employer falling under Item No. 1 or Item No. 3 or Item No. 4 or Item No. 5 and being a licensee within the meaning of the Electricity Supply Act, 1948.	In addition to the sums deductible under any of the aforesaid Items, such sums as are required to be appropriated by the licensee in respect of the accounting year to a reserve under the Sixth Schedule to that Act shall also be deducted.

54 of 1948.

*Explanation.*—The expression “reserves” occurring in column (3) 10 against Item Nos. 1(iii), 2(iii) and 3(ii) shall not include any amount set apart for the purpose of—

(i) payment of any direct tax which, according to the balance-sheet, would be payable;

(ii) meeting any depreciation admissible in accordance with 15 the provisions of clause (a) of section 6;

(iii) payment of dividends which have been declared, but shall include—

(a) any amount, over and above the amount referred to in clause (i) of this *Explanation*, set apart as specific reserve for the 20 purpose of payment of any direct tax; and

(b) any amount set apart for meeting any depreciation in excess of the amount admissible in accordance with the provisions of clause (a) of section 6.

#### THE FOURTH SCHEDULE

25

(See section 15)

In this Schedule, the total amount of bonus equal to four per cent. of the annual salary or wage payable to all the employees is assumed to be Rs. 50,000. Accordingly, the maximum bonus to which all the employees are entitled to be paid (twenty per cent. of the annual salary or wage of all 30 the employees) would be Rs. 2,50,000.

Year	Amount equal to sixty per cent. or sixty-seven per cent., as the case may be, of available surplus allocable as bonus	Amount payable as bonus	Set on or set off of the year carried forward	Total set on or set off carried forward	
					35
					40
(1)	(2)	(3)	(4)	(5)	
	Rs.	Rs.	Rs.	Rs. of (year)	
1.	70,000	70,000	Nil	Nil	
2.	6,35,000	2,50,000*	Set on 2,50,000*	Set on 2,50,000 (2)	45

Year	Amount equal to sixty per cent. or sixty-seven per cent., as the case may be, of available surplus allocable as bonus	Amount payable as bonus	Set on or set off of the year carried forward	Total set on or set off carried forward	
(1)	(2)	(3)	(4)	(5)	of (year)
	Rs.	Rs.	Rs.	Rs.	
5	3. 2,20,000	2,50,000* (inclusive of 30,000 from year-2)	Nil	Set on 2,20,000	(2)
10	4. 3,75,000	2,50,000*	Set on 1,25,000	Set on 2,20,000 1,25,000	(2) (4)
15	5. 1,40,000	2,50,000* (inclusive of 1,10,000 from year-2)	Nil	Set on 1,10,000 1,25,000	(2) (4)
20	6. 3,10,000	2,50,000*	Set on 60,000	Set on Nil† 1,25,000 60,000	(2) (4) (6)
25	7.] 1,00,000	2,50,000* (inclusive of 1,25,000 from year-4 and 25,000 from year-6)	Nil	Set on 35,000	(6)
30	8. Nil (due to loss)	50,000** (inclusive of 35,000 from year-6)	Set off 15,000	Set off 15,000	(8)
35	9. 10,000	50,000**	Set off 40,000	Set off 15,000 40,000	(8) (9)
40	10. 2,15,000	1,60,000 (after setting off 15,000 from year-8 and 40,000 from year-9)	Nil	Nil	

## NOTES—

\*Maximum.

†The balance of Rs. 1,10,000 set on from year-2 lapses.

\*\*Minimum.

## STATEMENT OF OBJECTS AND REASONS

A Tripartite Commission was set up by the Government of India by their Resolution No. WB-20(9)/61 dated the 6th December, 1961, to consider, in a comprehensive manner, the question of payment of bonus based on profits to employees employed in establishments and to make recommendations to the Government. The Commission's Report, containing their recommendations, was received by the Government on the 24th January, 1964. In their Resolution No. WB-20(3)/64 dated the 2nd September, 1964, the Government announced acceptance of the Commission's recommendations subject to a few modifications as were mentioned therein. With a view to implement the recommendations of the Commission as accepted by the Government, the Payment of Bonus Ordinance, 1965, was promulgated on 29th May, 1965. The object of the Bill is to replace the said Ordinance.

The notes on clauses explain the various provisions of the Bill.

D. SANJIVAYYA.

NEW DELHI;

*The 5th August, 1965.*

*Notes on clauses*

*Clause 1.—Sub-clause (2):* The subject-matter of the proposed legislation is relatable to entry 24 in the Concurrent List. This entry, in so far as it relates to the State of Jammu and Kashmir, is applicable only with respect to labour employed in the coal-mining industry. Even with regard to coal-mining industry, if it is carried on by a company, the application of the proposed legislation will raise difficulties as the Companies Act, 1956, applies to the State of Jammu and Kashmir only to the extent to which the provisions of that Act relate to the incorporation, regulation and winding up of banking, insurance and financial corporations. For this reason, the Act does not extend to the State of Jammu and Kashmir.

*Sub-clauses (3) and (4).—*The provisions of the Act apply from the accounting year commencing on any day in the year 1964, to every factory; and to every other establishment in which twenty or more persons are employed on any day during an accounting year.

*Sub-clause (5).—*Provision has been made in the sub-clause to the effect that an establishment to which the Act applies shall continue to be governed by the Act even if the number of persons employed therein falls below twenty, subsequently.

*Clause 2.—*The definition of 'allocable surplus' in sub-clause (4) is based on the recommendation of the Bonus Commission made in paragraphs 9.9 and 12.1 of its report.

The definition of 'employee' in sub-clause (13) is based on the definition of 'workman' in the Industrial Disputes Act, 1947, except that apprentices have been excluded. In accordance with the recommendation of the Commission contained in paragraph 12.7 of its report, all persons drawing a salary or wage up to Rs. 1,600 per mensem will come within the scope of the definition of 'employee'.

The term 'salary or wage' has been defined in sub-clause (21) keeping in view the recommendation made by the Commission in paragraph 12.4 of its report that bonus should be related to wages and dearness allowance taken together and that all other allowances such as over-time wages and incentive, production and attendance bonus including attendance bonus under Statutory Bonus Schemes should be excluded.

*Clause 3.—*This clause provides for the payment of bonus unit-wise in certain cases instead of establishment-wise. The clause is



based on the recommendation made by the Commission in paragraph 6.12 of its report.

*Clause 4.*—The manner in which gross profits derived by an employer from an establishment may be calculated has been indicated in the clause.

*Clause 6.*—The clause provides for deductions of certain sums from the gross profits as prior charges for the purpose of computing the available surplus. The sums so deductible are—(1) any amount by way of depreciation admissible under the Income-tax law (*vide* paragraphs 9.2 and 9.3 of the report of the Commission); (2) any development rebate or development allowance which the employer is entitled to deduct from his income under the Income-tax Act; (3) all direct taxes; and (4) the sums specified in the Third Schedule in respect of the various categories of employers mentioned therein.

*Clause 7.*—The clause explains how the amount of direct tax payable by the employer shall be calculated. The provisions proposed in sub-clauses (a) to (d) are based on the recommendation of the Commission made in paragraphs 9.5, 9.6, 9.11 and 17.20 of its report. Under sub-clause (e), any rebate, credit, relief, etc. allowed for the development of an industry shall not be taken into account in the calculation of the direct tax payable by the employer. This provision is intended to promote the development of industries.

*Clause 8.*—Under the clause, an employee should have worked in the establishment at least for thirty working days in an accounting year to be entitled to be paid bonus. This provision is based on the recommendation of the Commission made in paragraph 19.14 of its report.

*Clause 9.*—The clause provides that an employee who has been dismissed from service for fraud, riotous or violent behaviour, theft, etc., shall not be entitled to receive bonus from the employer. The clause is based on the recommendation of the Commission made in paragraph 19.18 of its report.

*Clauses 10 and 11.*—These clauses provide for the payment of a minimum and maximum bonus by the employer to his employees. Every employee who has worked in the establishment for all the working days in an accounting year shall be entitled to be paid bonus which shall not be less than four per cent. of his annual salary or wage or Rs. 40 whichever is higher, or more than 20 per cent. of his annual salary or wage. In the case of an employee

under 15 years of age, the minimum bonus payable will be four per cent. of his annual salary or wage or Rs. 25 whichever is higher. These provisions are based on the recommendation of the Commission made in paragraph 12.5 of its report.

*Clause 12.*—In the case of an employee drawing more than Rs. 750 but less than Rs. 1,601 per mensem, as his salary or wage, the bonus (whether minimum or maximum) payable to him, shall be calculated as if his salary or wage were Rs. 750 per mensem. The clause is based on the recommendation of the Commission made in paragraph 12.7 of its report.

*Clause 13.*—The clause provides for a proportionate reduction of bonus in cases where an employee has not worked for all the working days in an accounting year. A recommendation to this effect is contained in paragraph 12.5 of the report of the Commission.

*Clause 14.*—The clause provides for the computation of the number of working days for the purpose of calculating the minimum and maximum bonus payable to an employee. The clause is based on the recommendation of the Commission made in paragraph 12.5 of its report and also on the provisions already existing in the Industrial Disputes Act, 1947.

*Clause 15.*—In certain accounting years, some amount may be left in the allocable surplus after the payment of maximum bonus to all the employees. To meet such cases, a provision for set on has been made in sub-clause (1). Similarly, in certain accounting years, there may not be any allocable surplus at all or the allocable surplus may not be sufficient to pay the minimum bonus to all the employees. To meet such contingencies, a provision for set off has been made in sub-clause (2). The amounts set on or set off have to be carried forward in the manner illustrated in the Fourth Schedule.

Sub-clause (4) provides that where in any accounting year any amount has been carried forward and set on or set off, then, in calculating bonus for the succeeding accounting year, the amount of set on or set off brought forward from the earliest accounting year shall first be taken into account.

The provisions relating to set on and set off are based on the recommendation of the Commission made in paragraph 12.13 of its report.

*Clause 16.*—Sub-clause (1) of the clause provides for concessional treatment to newly set up establishments in matters relating to payment of bonus. In the case of newly set up establishments, bonus is payable only from the accounting year in which the employer derives profits from the establishment or from the sixth accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from the establishment, whichever is earlier.

Sub-clause (2) makes the provision of sub-clause (1) applicable to new departments or undertakings set up by existing establishments.

The clause seeks to give effect to the recommendation of the Commission made in paragraph 12.9 of its report.

*Clause 17.*—In paragraph 12.4 of its report, the Commission recommended that Puja bonus and other customary bonus, if paid, should be considered as bonus paid 'on account' and deducted from the amount finally payable as bonus. The clause is based on this recommendation. Provision has also been made in the clause for adjustment of any interim bonus paid in advance.

*Clause 18.*—The clause provides that where in any accounting year an employee is found guilty of misconduct causing financial loss to the employer, it shall be lawful for the employer to deduct the amount of loss from the amount of bonus payable by him to the employee. A recommendation to this effect has been made by the Commission in paragraph 19.17 of its report.

*Clause 19.*—The clause provides for the payment of bonus in cash and the time-limit for such payment. In cases where there is a dispute regarding payment of bonus, the bonus has to be paid within a month of the settlement or award in respect of such dispute. In other cases, bonus has to be paid within a period of eight months from the close of the accounting year. Power has been taken to extend, for sufficient reasons, the aforesaid period of eight months.

The clause generally follows the recommendation of the Commission made in paragraph 19.20 of its report.

*Clause 20.*—The clause provides for the application of the bonus formula to those public sector undertakings which fulfil the 20 per cent. competition test in accordance with the recommendation contained in paragraph 18.8 of the Commission's report. It has also

been provided that once the bonus formula is applied to such establishments, it shall continue to apply even if the 20 per cent. competition test is not satisfied in any accounting year.

*Clause 21.*—The clause provides for the recovery from an employer of the amount due to an employee by way of bonus. The provision is on the lines of section 33C of the Industrial Disputes Act, 1947.

*Clause 22.*—The clause provides that any dispute regarding the bonus payable under the Act or with regard to the application of the Act to an establishment in public sector shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947, or of any corresponding State law and the provisions of the Industrial Disputes Act, 1947, or that State law shall apply to such dispute.

*Clause 23.*—The clause provides, in accordance with the recommendations made in paragraphs 19.6 and 19.7 of the Commission's report, that if audited balance-sheets and profit and loss accounts of any corporation or company (other than a banking company) are produced in the course of proceedings before any authority to whom a dispute has been referred, that authority may presume the statements and particulars contained in such balance-sheet and profit and loss account to be accurate. However, where that authority is satisfied that the particulars aforesaid are not correct, it may take necessary steps to find out the accuracy of such statements or particulars.

The authority may also, if it thinks necessary, require the corporation or the company to furnish to the union or the employees any clarification required by the union or the employees relating to any item in the balance-sheet or the profit and loss account.

*Clause 24.*—This clause is intended to give effect to the recommendations made in paragraph 19.10 of the Commission's report, namely that audited accounts of banking companies should not be questioned, but trade unions or employees may be permitted to obtain information for verifying the amount of bonus.

*Clause 25.*—This clause provides for the audit of accounts of an employer, not being a corporation or a company. Where the accounts of such an employer duly audited by qualified auditors are produced before any authority to whom a dispute has been referred, that authority shall presume the particulars contained in such accounts to be accurate. In cases where the accounts produced are not audited by qualified auditors, that authority has been

given power to direct the employer to get the accounts audited by qualified auditors or to get the accounts audited by such auditors as it thinks fit. A recommendation to this effect is contained in paragraph 19.8 of the Commission's report.

*Clause 26.*—The clause provides for the maintenance of registers, records, etc. by the employer.

*Clause 27.*—The clause provides for the appointment of Inspectors and the powers exercisable by Inspectors.

*Clause 28.*—The clause provides for penalty for contravention of any of the provisions of the Act or the rules made thereunder or for non-compliance with any direction or requisition made under the Act.

*Clause 32.*—The clause makes the Act inapplicable to the classes of employees specified in sub-clauses (i) to (x). The clause is based on the recommendations of the Commission contained in paragraphs 4.6; 15.20; 17.9; 17.16; 17.19 and 17.22 of its report. Institutions like the Reserve Bank of India, Industrial Finance Corporation, etc. have also been specifically excluded from the scope of the Act.

*Clause 33.*—The clause makes the provisions of the Act applicable to certain pending disputes relating to bonus with respect to any accounting year ending on any day in the year 1962 and subsequent accounting years. Such disputes shall be decided in accordance with the provisions of the Act.

*Clause 34.*—In certain establishments, the employees are getting bonus under an award, agreement, settlement or contract of service which would be higher than that payable under the Act. The clause seeks to safeguard the interest of such employees by providing that they would get bonus either on the existing basis or on the basis of the formula provided in the Act, whichever is higher.

Provision has also been made in the clause enabling the employer and the employees to enter into an agreement with regard to the payment of bonus under a formula which is different from that under the Act.

*Clause 36.*—The clause empowers the appropriate Government to exempt for a specified period any establishment or class of establishments from all or any of the provisions of the Act, if, having regard to the financial position and other relevant circumstances

of the establishment or class of establishments, the appropriate Government is satisfied that such exemption is necessary in public interest.

*The First Schedule and the Second Schedule.*—The First Schedule provides for the manner in which the gross profits of an employer, being a banking company, shall be calculated and the Second Schedule provides for the manner in which the gross profits of any other employer shall be calculated. These Schedules generally follow the proforma suggested by the Commission in paragraph 8.10 of its report.

*The Third Schedule.*—This Schedule has reference to sub-clause (d) of clause 6. The sums deductible as prior charges under the Schedule are generally on the lines suggested by the Commission with respect to the various categories of employers (*vide* paragraphs 11.7; 11.8; 11.13; 11.17; 11.18; 15.11 and 17.5 of the report of the Commission).

*The Fourth Schedule.*—This Schedule follows the illustration given by the Commission in paragraph 12.13 of its report.

## FINANCIAL MEMORANDUM

Under clause 22 of the Bill, any dispute arising between an employer and his employees with respect to the payment of bonus under the Act or with respect to the application of the Act to an establishment in public sector shall be deemed to be an industrial dispute and the provisions of the Industrial Disputes Act, 1947, or of any corresponding law relating to investigation and settlement of industrial disputes in force in a State shall apply to such dispute. Clause 27 of the Bill provides for the appointment of Inspectors. The work connected with the handling of disputes and inspections, in so far as it relates to establishments in respect of which the Central Government is the appropriate Government, is proposed to be entrusted to the Industrial Tribunals already set up under the Industrial Disputes Act, 1947, and the existing staff of Chief Labour Commissioners' Organisation. It is difficult at present to assess precisely the additional work-load that may be involved. The position will be reviewed in the light of the actual working of the Act when a more realistic idea of the additional work-load would be available. The Bill is not likely to involve any appreciable additional expenditure in the near future.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 38 of the Bill empowers the Central Government to make rules for carrying into effect the provisions of the Act. The matters in respect of which such rules may be made are specified in that clause. They, *inter alia*, relate to the authority for granting permission for changing the accounting year; the preparation and maintenance of registers, records and other documents; and the powers of Inspectors. These are matters of administrative procedure and detail. The delegation of legislative power is thus of a normal character.



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CORRIGENDA

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In the Gazette of India Extraordinary, Part II—Section 2—

1. No. 5, dated the 23rd February, 1965:—

Page 84, line 20, *for* 'active' *read* 'activate'.

2. No. 7, dated the 27th February, 1965:—

(i) Page 123, line 35, *for* '21(2),' *read* '24(2)';

(ii) Page 155, line 32, marginal reference, *for* '1 of 1922.' *read* '11 of 1922.';

(iii) Page 165, line 2, *after* 'essential' *insert* 'for';

(iv) Page 189, line 7, *after* 'In the case of' *insert* 'a'; and

(v) Page 194, line 35, *after* 'whereon' *insert* 'is'.

3. No. 12, dated the 12th March, 1965:—

Page 278, line 40, *for* '1,364,47,17,000' *read* '1,364,47,87,000'.

4. No. 16, dated the 25th March, 1965:—

(i) Page 302, line 19, *for* 'Ministry of La' *read* 'Ministry of Law'; and

(ii) Page 304, line 33, *for* '14,05,33,040' *read* '14,05,33,000'.

5. No. 25, dated the 1st May, 1965:—

Page 387, line 47, *after* 'Capital Outlay' *insert* 'of the'.

6. No. 28, dated the 10th May, 1965:—

Page 423, against line 9, *insert* '8 of 1965.' as marginal reference.

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S. L. SHAKDHER,  
*Secretary.*